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Torture and other cruel, inhuman or degrading treatment or punishment

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report submitted by Theo van Boven, Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, in accordance with resolution 56/143 of 19 December 2001.

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Report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment

Summary

In the present report, the Special Rapporteur addresses the issue of the prohibition of torture and of cruel, inhuman or degrading treatment or punishment in the context of anti-terrorist measures. The Special Rapporteur concludes inter alia that the following basic legal safeguards should remain in any legislation relating to arrest and detention, including any type of anti-terrorist legislation, as these safeguards guarantee the access of any person in detention to the outside world and thus ensure his or her humane treatment: the right to habeas corpus; the right to have access to a lawyer within 24 hours from the time of arrest; and the right to inform a relative or friend about the detention. The Special Rapporteur also addresses the issues of the places and length of pre-trial detention and of admissibility of confessions in court, as well as the necessity to ensure that impunity will not prevail in cases of torture in all circumstances. He recalls the principle of non-refoulement in particular with respect to extradition cases. The Special Rapporteur then addresses the issue of international and national mechanisms for visits to places of deprivation of liberty. In that respect, he expresses the strong desire that the competent United Nations organs, notably the General Assembly, give the matter of an effective protocol to prevent torture their earnest and immediate attention with a view to the early adoption of that instrument. Finally, the Special Rapporteur recalls that any form of corporal punishment of children is contrary to established principles on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. He calls upon States to take adequate measures, in particular legal and educational ones, to ensure that the right of children to physical and mental integrity is well protected in the public and in the private spheres.

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1. The present report is the fourth report submitted to the General Assembly by the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, pursuant to General Assembly resolution 56/143 (paragraph 32) and Commission resolution 2002/38 (paragraph 31). It is the first report to be submitted by the present mandate-holder, Theo van Boven. Like his predecessor's reports, this report includes issues of special concern to the Special Rapporteur, in particular overall trends and recent developments.

I. The prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures

2. Ensuring security for all human beings has become one of the major challenges faced by the international community. Legislative and other measures to combat terrorism and protect national security have reportedly been flourishing in a number of countries in response to legitimate needs to prevent terrorist acts and punish those responsible for having financed, planned, supported or committed such acts. Fears have nevertheless been expressed that some of these measures may not fully respect basic human rights and fundamental freedoms. Calls for a fair balance between on the one hand the enjoyment of human rights and fundamental freedoms by all and on the other hand legitimate concerns over national and international security have thus been heard on several occasions.[1] In his remarks at the fifty-seventh session of the Commission on Human Rights, the Secretary-General stated that security could not be achieved by sacrificing human rights, and that to try and do so would hand the terrorists a victory beyond their dreams. On the contrary, greater respect for human rights, along with democracy and social justice, would in the long term prove the only effective prophylactic against terror. He remarked that the end does not justify the means, and that instead, the means tarnish, and may pervert, the end. Terrorism is one of the threats against which States must protect their citizens. They have not only the right, but also the duty, to do so. However, States must also take the greatest care to ensure that counter-terrorism does not, any more than sovereignty, become an all-embracing concept that is use to cloak, or justify, violations of human rights.

3. The Special Rapporteur notes that there is no internationally agreed definition of terrorism. The concept of terrorism, increasingly used in new legislation, is often construed as being too vague or as encompassing peaceful political opposition activities. The Declaration on Measures to Eliminate International Terrorism (resolution 49/60 of 9 December 1994, annex, para. 3) declares that "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them". It further states that "acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security ... and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society" (para. 2).

4. Accordingly, in its resolution 1373 (2001) adopted under Chapter VII of the United Nations Charter ("Action with respect to threats to the peace, breaches of the peace, and acts of aggression"), the Security Council underscored the responsibility of all States to eradicate terrorism, and established the Counter-Terrorism Committee with a view to monitoring the implementation of this resolution, in particular with the assistance of appropriate expertise. As stated by the United Nations High Commissioner for Human Rights in her report to the last session of the Commission on Human Rights, several of the areas that the Committee intends to deal with, inter alia, drafting counter-terrorism legislation, financial law, customs law, immigration law, extradition law, police and law enforcement work, and illegal arms trafficking, have a strong human rights dimension. Owing to the serious human rights concerns that could arise from the misapplication of resolution 1373 (2001), it would be desirable that a human rights expert assist the Committee.[2] The Special Rapporteur fully supports the suggestion made by the High Commissioner, especially, from the perspective of his mandate, with respect to the issues of extradition law and police and law enforcement work.

5. According to information received by the Special Rapporteur, the provisions of some new anti-terrorist legislation at the national level may not provide sufficient legal safeguards as recognized by

international human rights law in order to prevent human rights violations, in particular those safeguards preventing and prohibiting torture and other forms of ill-treatment. In his first report to the Commission on Human Rights, the Special Rapporteur reviewed the non-derogable nature of the prohibition of torture and cruel, inhuman or degrading treatment or punishment, in the context of renewed preoccupations with respect to human security in the aftermath of the terrorist attacks of 11 September 2001 in the United States of America. He concluded that the legal and moral basis for the prohibition of torture and other cruel, inhuman or degrading treatment or punishment was absolute and imperative and must under no circumstances yield or be subordinated to other interests, policies and practices.[3]

6. The Special Rapporteur hereby wishes briefly to review information he has received on measures designed or taken to counter national and international terrorism in the light of relevant standards of international human rights law, in particular those relating to arrest and pre-trial detention and due process of law, which must be respected in envisaging, enacting and implementing such measures.

A. Arrest, pre-trial detention, access to a lawyer and the right to habeas corpus

7. Extensive periods of detention in custody without charge or trial are said to have been contemplated or enacted in order to provide security and other forces with sufficient time to collect evidence leading to charges under anti-terrorist legislation. It has also been reported that by enacting laws providing for indefinite administrative detention as an alternative to prosecution, States have created informal criminal justice systems in which detainees are denied rights that they would normally have in the ordinary judicial systems. It has been implied that such lengthy periods of detention without judicial review might lead to their misuse by security and other forces for the aims of preventive detention and may thus facilitate the use of illegal methods to obtain confessions and other evidence. Furthermore, according to information that has been received, measures to permit the indefinite detention of foreign nationals alleged to pose a threat to national security are envisaged or have already been taken. It is believed that such administrative detention would allow the relevant authorities to detain foreigners believed to pose a security threat but who cannot be deported to their country of origin without violating the principle of non-refoulement (see below, paras. 27 ff.).

8. The Special Rapporteur would like to recall article 9, paragraph 3, of the International Covenant on Civil and Political Rights, which states that "anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release". Paragraph 4 of the same article provides that "anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful" (right to habeas corpus). He also notes that the Basic Principles on the Role of Lawyers provide for all persons arrested or detained to be informed of their right to be assisted by a lawyer of their choice or a State-appointed lawyer (principles 5 and 6); to have prompt access to this lawyer, and "in any case not later than forty-eight hours from the time of arrest or detention" (principle 7); and to be "provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship, and in full confidentiality" (principle 8).

9. In its general comment No. 8 of 30 June 1982, the Human Rights Committee stated that in the view of the Committee, delays in bringing anyone arrested or detained in a criminal case before a judge or other officer authorized by law to exercise judicial power must not exceed a few days. In its concluding observations of the periodic report on Zimbabwe, the Human Rights Committee indicated for example, that the law relating to arrest and detention should ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order.[4]

10. With respect to persons arrested under suspicion of terrorist activities, attention is drawn to the findings of the Human Rights Committee regarding the fifth periodic report submitted by the United Kingdom of Great Britain and Northern Ireland under the International Covenant on Civil and Political Rights: "The Committee notes with concern that, under the general Terrorism Act 2000, suspects may be detained for 48 hours without access to a lawyer if the police suspect that such access would lead, for example, to

interference with evidence or alerting another suspect. Particularly in circumstances ... where their compatibility with articles 9 and 14 inter alia is suspect, and where other less intrusive means for achieving the same ends exist, the Committee considers that the State party has failed to justify these powers."

11. The Special Rapporteur notes that regional human rights bodies have reached similar conclusions. The European Court on Human Rights, in relation with article 5, paragraph 3 (the right to be promptly brought before a judge) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, stated in the case of *Brogan and others versus the United Kingdom* that the investigation of terrorist offences undoubtedly presented the authorities with special problems. The Court accepted that, subject to the existence of adequate safeguards, the context of terrorism in Northern Ireland had the effect of prolonging the period during which the authorities might, without violating article 5, paragraph 3, keep a person suspected of serious terrorist offences in custody before bringing him before a judge or other judicial officer. The Court indicated that the scope for flexibility in interpreting and applying the notion of "promptness" was very limited. In the Court's view, even the shortest of the four periods of detention, namely the four days and six hours spent in police custody, fell outside the strict constraints as to time permitted by the first part of article 5 paragraph 3.[6] The European Court of Human Rights further indicated that the word "promptly" could not be widely interpreted without seriously weakening a procedural guarantee to the detriment of the individual and the very essence of the right to be free from arbitrary arrest, even if public security were at stake. The Court stated that the undoubted fact that the arrest and detention of the applicants had been inspired by the legitimate aim of protecting the community as a whole from terrorism was not on its own sufficient to ensure compliance with the specific requirements of article 5, paragraph 3.[7]

12. With respect to the adequate safeguards referred to above, the European Court decided in the case of *Brannigan and McBride versus the United Kingdom* that the following elements were adequate and sufficient safeguards against abuse: (a) the remedy of habeas corpus is available to test the lawfulness of the original arrest and detention, and it provides an important measure of protection against arbitrary detention; and (b) detainees have an absolute and legally enforceable right to consult a solicitor after forty-eight hours from the time of arrest. Moreover, within that period the exercise of this right can only be delayed where there exists reasonable grounds for doing so. In the Court's view, it was clear that the decision to delay access to a solicitor was susceptible to judicial review and that in such proceedings the burden of establishing reasonable grounds for doing so rested on the authorities. The Court also stated that it was not disputed that detainees are entitled to inform a relative or friend about their detention and to have access to a doctor.[8] The right to habeas corpus and a very limited period of incommunicado detention, that is, 48 hours, seemed to constitute the core legal safeguards to be guaranteed to anyone under arrest.

13. In the case of *Aksoy versus Turkey*, the European Court on Human Rights confirmed that measures aimed at derogating the right to habeas corpus (it must be recalled that Turkey had deposited a notification of derogation in respect of article 5, paragraph 3) would in any case not fulfil the criteria set up in the provision allowing derogations from certain rights in time of public emergency, that is, to be strictly required by the exigencies of the situation. The Court stated that it had taken account of the unquestionably serious problem of terrorism in South-east Turkey and the difficulties faced by the State in taking effective measures against it. However, it was not persuaded that the exigencies of the situation necessitated the holding of the applicant on suspicion of involvement in terrorist offences for fourteen days or more in incommunicado detention without access to a judge or other judicial officer.[9] The Court further stated that the denial of access to a lawyer, doctor, relative or friend and the absence of any realistic possibility of being brought before a court to test the legality of the detention meant that the applicant was left completely at the mercy of those holding him.[10]

14. Similarly, the Inter-American Court on Human Rights in its advisory opinion on *Habeas Corpus in Emergency Situations* concluded unanimously that the right to habeas corpus cannot be suspended because it is a judicial guarantee essential for the protection of the rights and freedoms whose suspension is prohibited under the American Convention on Human Rights. In particular, the Inter-American Court stated that, in order for habeas corpus to achieve its purpose, which is to obtain a judicial determination of the lawfulness of a detention, it is necessary that the detained person be

brought before a competent judge or tribunal with jurisdiction over him. Here habeas corpus performs a vital role in ensuring that a person's life and physical integrity are respected, in preventing his disappearance or the keeping of his whereabouts secret and in protecting him against torture or other cruel, inhuman, or degrading punishment or treatment.[11]

15. Judicial control of interference by the executive power with the individual's right to liberty is an essential feature of the rule of law. With respect to the non-derogability of the right to habeas corpus, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the question of human rights and state of emergency, Leandro Despouy, noted that the lessons to be drawn from the practice of States were also important for this clarification, since experience had shown that Governments generally understood that there must be no limitations on habeas corpus in states of emergency. This was demonstrated by the fact that the Special Rapporteur had received only one notification of the suspension of this remedy, and that was 10 years ago. Concurrently, the Human Rights Committee, in response to a resolution of the Sub-Commission advocating the preparation of a draft protocol to prohibit any derogation from articles 9, paragraph 3, and 14 of the International Covenant on Civil and Political Rights, said that it was convinced that States parties as a rule understood that the remedies of habeas corpus and amparo should not be restricted in states of emergency. Likewise, the Committee, when considering the report of a State party, pointed out that measures adopted by a Government to combat terrorism should not affect the exercise of the fundamental rights set forth in the Covenant, and in particular those in articles 6, 7 and 9.[12]

16. Following the view expressed by the regional human rights courts referred to above, the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment is of the view that prompt judicial intervention serves as a guarantee that there will be no breach of the non-derogable right not to be subjected to torture or other forms of ill-treatment. His predecessor has constantly argued that the use of incommunicado detention should be considered unlawful. The set of recommendations that he included in his last report to the General Assembly,[13] recommendations with which the current mandate-holder fully associated himself,[14] calls upon States to take appropriate measures to abrogate incommunicado detention as torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal, and persons held incommunicado should be released without delay. Legal provisions should ensure that detainees are given access to legal counsel within 24 hours of detention. Security personnel who do not honour such provisions should be punished. In exceptional circumstances, under which it is contended that prompt contact with a detainee's lawyer might raise genuine security concerns and where restriction of such contact is judicially approved, it should at least be possible to allow a meeting with an independent lawyer, such as one recommended by a bar association. In all circumstances, a relative of the detainee should be informed of the arrest and place of detention within 18 hours.[15] Accordingly, since 1999, the Commission on Human Rights has reminded all States that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment.[16] The previous Special Rapporteur further recommended that provisions should give all detained persons the ability to challenge the lawfulness of the detention, such as through habeas corpus or amparo; and that such procedures should function expeditiously.[17]

17. The Special Rapporteur notes that the above-mentioned findings apply to all forms of deprivation of liberty, including administrative detention and immigration control measures. The Human Rights Committee in its general comment No. 8 on article 9 of the International Covenant on Civil and Political Rights stated that if so-called preventive detention was used, for reasons of public security, it had to be controlled by these same provisions, that is, it must not be arbitrary and must be based on grounds and procedures established by law (paragraph 1); information on the reasons must be given (paragraph 2); and court control of the detention must be available (paragraph 4) as well as compensation in the case of a breach (paragraph 5). If, in addition, criminal charges were brought in such cases, the full protection of article 9 (2) and (3), as well as article 14, also had to be granted.[18]

18. The Special Rapporteur is therefore of the view that, in accordance with international law, and as

confirmed by States' practice, the following basic legal safeguards should remain in fact in any legislation relating to arrest and detention, including any type of anti-terrorist legislation: the right to habeas corpus, the right to have access to a lawyer within 24 hours from the time of arrest and the right to inform a relative or friend about the detention. These safeguards guarantee the access of any person in detention to the outside world and thus ensure his or her humane treatment while in detention.

B. Places of pre-trial detention

19. The Special Rapporteur has been informed that some laws would allow security and other forces carrying out the investigation, in particular police, to request the transfer of an accused person from judicial custody to their custody for a period of time for the purposes of further investigation. As stated by his predecessor, the Special Rapporteur recommends that those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pre-trial detention which, in any case, should not exceed a period of 48 hours. They should accordingly be transferred to a pre-trial facility under a different authority at once, after which no further unsupervised contact with the interrogators or investigators should be permitted.[19]

20. The Special Rapporteur would also recommend that at the time of arrest, a person should undergo a medical inspection, and that medical inspections should be repeated regularly and should be compulsory upon transfer to another place of detention.[20] The Standard Minimum Rules for the Treatment of Prisoners also recommend that the medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary (rule 24).

C. Length of pre-trial detention

21. National judicial authorities must also ensure that the detention of an accused person pending trial does not exceed a reasonable time, taking into consideration whether there exists a genuine requirement of public interest justifying, with due regard to the principle of presumption of innocence, a departure from the rule of respect for individual liberty. The persistence of reasonable suspicion that the person arrested has committed an offence is a condition sine qua non for the validity of the arrest in the first place and then of the continuation of the detention. Special diligence must prevail in any criminal proceedings. The Special Rapporteur would like to recall that the exigencies of dealing with terrorist criminal activities cannot justify interpreting the notion of the "reasonableness" of the suspicion on which an arrest and then a detention may be based, to the point of impairing its very meaning. According to the Human Rights Committee, pre-trial detention should be an exception and as short as possible.[21] Regular periodic review of the lawfulness and continuing necessity of the detention should thus be carried out by an independent and impartial court of law with a view to re-examining the reasonableness of the suspicion on which the detention is based.

D. Confessions and evidence

22. Fears have been expressed that confessions or evidence extracted by illegal means during interrogation would be admissible in court when dealing with terrorist charges. The Special Rapporteur would like to recall article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which clearly states that "any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made". Accordingly, the previous Special Rapporteur has constantly recommended that no statement of confession made by a person deprived of liberty, other than one made in presence of a judge or a lawyer, should have a probative value in court, except as evidence against those who are accused of having obtained the confession by unlawful means. Serious consideration should be given to introducing video- and audiotaping of proceedings in interrogation rooms.[22] He further recommended that each interrogation should be initiated with the identification of all persons present, and that all interrogation sessions should be recorded and preferably videorecorded. The identity of all persons present should be included in the records, and evidence from non-recorded interrogations should be excluded from court proceedings.[23] It should be noted that the Basic Principles on the Role of Lawyers provide that all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of

criminal proceedings (principle 1). Similarly, the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provide for the right of all detained persons to have access to a lawyer during pre-trial detention and investigation.

23. The Special Rapporteur would also like to recall the following recommendation made by his predecessor: "Where allegations of torture or other forms of ill-treatment are raised by a defendant during trial, the burden of proof should shift to the prosecution to probe beyond reasonable doubt that the confession was not obtained by unlawful means, including torture and similar ill-treatment".[24]

24. With respect to the specific situation often referred to as the "ticking bomb" scenario, i.e., a situation which would allow torturing somebody deemed to have crucial information on a bomb said to explode shortly and which could potentially kill innocent civilians, the Special Rapporteur would like to call to mind that there must be no derogation to the prohibition of torture under international law. He would like in particular to draw attention to the concluding observations of the Committee against Torture upon its recent consideration of the periodic report of Israel under the Convention against Torture, in which the Committee stated that it was fully aware of the difficult situation of unrest faced by Israel, particularly in the occupied territories, and understood its security concerns. While recognizing the right of Israel to protect its citizens from violence, the Committee stated that no exceptional circumstances may be invoked as justification of torture.[25]

E. Immunity from prosecution of law enforcement officials

25. According to other information that the Special Rapporteur has received, under some anti-terrorist legislation, security and other forces would be immune from sanctions even when the safeguards outlined above are not complied with. Thus, it is reported that laws provide for immunity from prosecution for any authority on whom powers have been conferred under the concerned anti-terrorist laws, for anything which is done in good faith. It is feared that such provisions may effectively constitute an offer of impunity to law enforcement agents who use torture or cruel, inhuman or degrading treatment during interrogations. The term "good faith", for example, is in this context extremely wide-ranging and subjective. It could even be claimed that torture of an arrested person suspected of terrorist activities is an act done in good faith, for example, for the purpose of the fight against terrorism.

26. The Special Rapporteur reminds States parties of their obligations under the Convention against Torture to ensure that "all acts of torture are offences under [their] criminal law" (article 4); that "its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under [their] jurisdiction" (article 12); and that "any individual who alleges he has been subjected to torture in any territory under [their] jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities" (article 13). In that respect, the following recommendations made by his predecessor are pertinent: when a detainee or relative or lawyer lodges a torture complaint, an inquiry should always take place and, unless the allegation is manifestly ill-founded, public officials involved should be suspended from their duties pending the outcome of the investigation and any subsequent legal or disciplinary proceedings; a person in respect of whom there is credible evidence of responsibility for torture or severe maltreatment should be tried and, if found guilty, punished; and legal provisions granting exemptions from criminal responsibility for torturers, such as amnesties or indemnity laws should be abrogated.[26]

F. The right to seek asylum, the principle of non-refoulement and extradition

27. The Special Rapporteur has received information according to which the right to seek asylum, which is enshrined in the Universal Declaration of Human Rights (article 14), has been unduly restricted by what are meant to be anti-terrorist measures. Particular groups of migrants are said to have been discriminated against and fears have been expressed that, in the name of the fight against terrorism, asylum has been given a very restrictive interpretation.

28. In this regard, reference is made to the 1951 Convention relating to the Status of Refugees, which provides exclusion clauses from the status of refugee. The Convention shall not apply to any person with respect to whom there are serious reasons for

considering that (a) he has committed a crime against peace, a war crime, or a crime against humanity; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations (article 1 [f]). Acts of terrorism may, in some instances, certainly fall within one of these exclusion clauses. This, however, does not mean that the request for asylum of persons suspected of such acts should not be examined in accordance with all safeguards provided in human rights and refugee law.

29. It also noted that article 33, paragraph 2, of the 1951 Convention relating to the Status of Refugees provides for the only exception to the principle of non-refoulement in cases which arguably may relate to persons suspected of terrorism. Indeed, this paragraph reads as follows: "the benefit of the present provision [i.e., principle of non-refoulement] may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country".

30. Nevertheless, the Special Rapporteur would like to draw attention to the *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, published by the Office of the United Nations High Commissioner for Refugees (UNHCR), which clearly states that an application for refugee status by a person having (or presumed to have) used force, or to have committed acts of violence of whatever nature and within whatever context, must in the first place — like any other application — be examined from the standpoint of the inclusion clauses in the 1951 Convention.[27] Thus, the determination of refugee status on the basis of the full and fair individual review of an asylum-seeker's claim should always take place before authorities assess the actual and direct danger posed by the presence of an asylum-seeker to the national security of the hosting community. It has been reported that the more restrictive immigration policies were aimed at reversing the "inclusion before exclusion" approach advocated by UNHCR. The Handbook also states that due to their nature and the serious consequences of their application to a person in fear of persecution, the exclusion clauses should be applied in a restrictive manner.[28]

31. It is indeed a matter of law that serious criminals also deserve protection against persecution or prejudice, under full recognition that they should not escape trial and punishment. The Special Rapporteur would like to draw the attention of the General Assembly to his report to the last session of the Commission on Human Rights (E/CN.4/2002/137) in which he underlined the link between the non-derogable nature of the prohibition of torture and other forms of ill-treatment, and the principle of non-refoulement. In particular, reference was made to the Human Rights Committee's general comment 20 on article 7, and to article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The latter provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The principle contained in the Human Rights Committee's statement and the above provision of the Convention against Torture are an inherent part of the overall fundamental obligation to avoid contributing in any way to a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. State practice, and the greater body of opinion, representing those most active in the protection of refugees and the development of refugee law, regards the principle of non-refoulement as likewise protecting the refugee from extradition.[29]

32. With respect to the pre-eminence of the principle of non-refoulement, the Special Rapporteur would like to underline the opinion of the European Court on Human Rights in the case of *Chahal versus the United Kingdom* in which the Court stated that the prohibition provided by article 3 [of the European Convention on Human Rights, i.e., prohibition of torture] against ill-treatment is equally absolute in expulsion cases. Thus, whenever substantial grounds have been shown for believing that an individual would face a real risk of being subjected to treatment contrary to article 3 if removed to another State, the responsibility of the Contracting State to safeguard him or her against such treatment is engaged in the event of expulsion. In these circumstances, the activities of the individual in question, however undesirable or dangerous, cannot be a material consideration. The protection afforded by

article 3 is thus wider than that provided by articles 32 and 33 of the United Nations 1951 Convention on the Status of Refugees.[30]

33. With respect to extradition, attention is drawn to the conclusions of the UNHCR Executive Committee (No. 17 [XXXI]-1980) on Problems of Extradition affecting Refugees, which called upon States to ensure that the principle of non-refoulement is duly taken into account in treaties relating to extradition and as appropriate in national legislation on the subject, and stressed that nothing in those conclusions should be considered as affecting the necessity for States to ensure, on the basis of national legislation and international instruments, punishment for serious offences, such as the unlawful seizure of aircraft, the taking of hostages and murder. In line with that recommendation, the Special Rapporteur would like to encourage States to include the principle *aut dedere aut judicare* in instruments aimed at international cooperation with respect to criminal matters.

34. The Special Rapporteur would like to remind States that in respect of certain crimes such as crimes against humanity and presumably certain terrorist acts, international law permits, and in some cases requires, States to exercise jurisdiction on the mere basis of presence in their territory of suspected perpetrators of such crimes. In a number of countries national legislation to that effect may still need to be enacted. He also would like to stress the possibility of prosecution of those charged with terrorist acts that qualify as crimes against humanity under the Rome Statute of the International Criminal Court, with due regard to the principle of complementarity laid down in the Rome Statute.

35. Finally, the Special Rapporteur would like to appeal to all States to ensure that in all appropriate circumstances the persons they intend to extradite, under terrorist or other charges, will not be surrendered unless the Government of the receiving country has provided an unequivocal guarantee to the extraditing authorities that the persons concerned will not be subjected to torture or any other forms of ill-treatment upon return, and that a system to monitor the treatment of the persons in question has been put into place with a view to ensuring that they are treated with full respect for their human dignity.

II. International and national mechanisms for visits to places of deprivation of liberty

36. In his last report to the General Assembly, the previous Special Rapporteur addressed the general issue of prevention and transparency[31] and advocated replacing the paradigm of opacity surrounding the places of deprivation of liberty by one of transparency. The present mandate-holder fully supports the recommendation made by his predecessor with respect to the importance of external supervision of all places of deprivation of liberty by independent officials, such as judges, prosecutors, ombudsmen and national or human rights commissions, and by civil society as well as by independent monitoring institutions, such as the International Committee of the Red Cross and the European Committee for the Prevention of Torture and Inhuman or Degrading Punishment (CPT) under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the mechanism contemplated by the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Both the protective and preventive roles of such mechanisms have been duly recognized.

37. The Special Rapporteur welcomes the decision of the fifty-eighth session of the Commission on Human Rights concerning the draft optional protocol, which is the result of a process of consultations and negotiations over the past decade, and whose objective is, as provided for in draft article 1, to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty in order to prevent torture and cruel, inhuman or degrading treatment or punishment. As suggested by the Joint Declaration issued on 26 June 2002 by the Special Rapporteur, the Committee against Torture, the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture and the United Nations High Commissioner for Human Rights on the occasion of the United Nations Day in Support of Victims of Torture (see annex), focused visits by independent multidisciplinary teams of experts to places of detention and other places where persons are deprived of their liberty have proved to be a most effective way to prevent torture.

38. Law enforcement officials and other detention personnel and authorities who are aware that their

behaviour may be scrutinized at any point by internal and external monitoring bodies are certainly much more inclined to follow existing rules and procedures pertaining to arrest and detention. Most legal systems have established procedures which, if properly applied, would drastically diminish the opportunities to commit torture and other forms of ill-treatment. Indeed, such safeguards as prompt access to lawyers, the family and/or a medical doctor, as well as the right to habeas corpus, remove a person from the potential arbitrariness of the detaining powers. The preventive effect of the existence of such monitoring mechanisms, especially when the concerned parties conduct ad hoc unannounced visits, should not be ignored.

39. The Special Rapporteur would strongly encourage senior law enforcement officials to carry out such visits with a view to obtaining a direct knowledge of how legal safeguards guaranteed under the law are respected in practice and what detention conditions prevail for those under their jurisdiction. Similarly, visits by independent police and prison ombudspersons have proved to be valuable preventive mechanisms, especially when the latter can make their recommendations public. Making law enforcement and other detention officials accountable, administratively, and if necessary criminally, for unlawful and unacceptable behaviour — an end to impunity — is certainly an effective means to achieve the prevention of torture and other forms of ill-treatment. The Special Rapporteur, however, notes that for the time being, too few systems have established such independent supervisory bodies within their law enforcement agencies.

40. The Special Rapporteur is convinced of the added value offered by independent external visiting mechanisms. He believes that such bodies would make false accusations of abuse falling within his mandate — always difficult for law enforcement officials to refute — much harder to sustain. External bodies may thus become relevant resources in clarifying circumstances surrounding allegations of torture and ill-treatment.

41. Furthermore, external mechanisms should be in a position to suggest to the relevant authorities legal and practical improvements by referring to best practices encountered in other similar situations. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment, a body that has visited places of detention in more than 40 States members of the Council of Europe, has demonstrated the preventive value of its visits and recommendations. As pointed out by the wide coalition of international non-governmental organizations,[32] supporting the draft optional protocol referred to in paragraph 37 above, the effectiveness of the optional protocol as a preventive instrument lies in the principle of cooperation and dialogue, which underscores the provisions of the instrument.

42. As indicated by the previous Special Rapporteur, the approaches advocated here would help some authorities develop a constituency to support the granting of needed budgetary resources, frequently wholly inadequate because of the low political priority for the area. It could draw attention to the often parlous conditions of work, residence and sustenance of police and prison personnel, which in turn could contribute to their being trained, paid and valued to act as professionals.[33] In that respect, it should be noted that the optional protocol establishes a special fund to help finance the implementation of the recommendations made by the international mechanism for visits, as well as to contribute to educational and technical assistance programmes at the national level.

43. When authorized to carry out visits to places of detention, the competent and committed organs of civil society play a crucial role. Through their daily contacts with local authorities and their regular visits of places of detention, as well as their willingness to alert relevant national and international mechanisms, they see to it that the necessary measures are taken in a timely manner with a view to respecting the fundamental principle that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. By often providing detainees with means of subsistence and moral support, these organs of civil society also serve as intermediaries between police and prison personnel and persons under arrest or detention and may thus release tensions, and accordingly improve the quality of life for all concerned. Their supportive role will be reinforced by the establishment, through the optional protocol, of bodies specifically designed at the domestic and international levels to assist Governments in preventing torture. They should also be instrumental in helping ensure some kind of follow-up to national and international mechanisms' recommendations and see to it that the progress made will be lasting in nature.

44. The Special Rapporteur welcomes the decision by an increasing number of States to extend a standing invitation to all special procedures of the Commission on Human Rights,[34] a number of which carry out visits to places of detention. These commitments to cooperate more closely with United Nations human rights mechanisms and programmes also show the interest on the part of State authorities to receive advice and recommendations from independent experts to better enhance and protect human rights, in particular with respect to issues relating to the deprivation of liberty.

45. The Special Rapporteur therefore expresses the strong wish that the competent United Nations organs, notably the General Assembly, give the matter of an effective protocol to prevent torture its earnest and immediate attention with a view to the early adoption of this instrument.

III. Corporal punishment of children

46. Early this year, the Special Rapporteur joined the Global Initiative to End All Corporal Punishment of Children[35] launched in April 2001. According to the information received, corporal punishment in the family home, in State institutions, in schools, in penal institutions for juvenile offenders and in other institutions remains legally as well as culturally widely accepted in a large number of countries. In particular, moderate and reasonable chastisement or correction, which often involve the use of implements such as belts, canes or slippers, have been justified for educational purposes. It is reported by non-governmental organizations that corporal punishment is still available as a sentence for juvenile offenders in some 50 States and as a punishment in schools and other institutions in some 65 States.[36] It is also reported that only the nine following States have explicitly prohibited the corporal punishment of children: Austria (1989), Croatia (1999), Cyprus (1994), Denmark (1997), Finland (1983), Germany (2000), Latvia (1998), Norway (1987) and Sweden (1979).

47. Not only is the practice of punishing children with the use of physical force often said to cause serious physical and psychological injury or even death, it is also believed that this practice plays a significant role in the development of violent behaviours and actions, both in childhood and later in adulthood. It is further reported that gender and racial discrimination are important factors in the application of physical violence as a form of punishment. The Special Rapporteur strongly believes that efforts must now be made to promote dialogue between generations and envisage positive, non-violent forms of discipline and punishment that are based on respect for the physical and psychological integrity of the child and his or her inherent dignity.

48. The Special Rapporteur notes that both of his predecessors took the view, which he fully shares, that corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment enshrined in the Universal Declaration of Human Rights.[37] Since 1997, the Commission on Human Rights has upheld this opinion by reminding Governments that corporal punishment can amount to cruel, inhuman or degrading punishment or even to torture.[38] The Human Rights Committee previously indicated in its general comment No. 20 on article 7 of the International Covenant on Civil and Political Rights (prohibition of torture and other cruel, inhuman or degrading treatment or punishment) that the prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. In the Committee's view, moreover, the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure. It is appropriate to emphasize in this regard that article 7 protects, in particular, children, pupils and patients in teaching and medical institutions.[39]

49. The Special Rapporteur would like to draw attention to the findings of the Committee on the Rights of the Child, in particular with respect to the child's right to physical integrity guaranteed by article 19 and article 28, paragraph 2, of the Convention on the Rights of the Child.[40] The Committee stressed that corporal punishment of children is incompatible with the Convention and has often proposed the revising of existing legislation, as well as the development of awareness and educational campaigns, to prevent child abuse and the physical punishment of children.[41] The Committee further recommended that States parties review all relevant legislation to ensure that all forms of violence against children, however light, are prohibited, including the use of torture, or cruel, inhuman or degrading treatment (such as flogging, corporal punishment or other violent measures) for punishment or disciplining within the

child justice system, or in any other context. The Committee recommends that such legislation incorporate appropriate sanctions for violations and the provision of rehabilitation for victims. The Committee urges the launching of public information campaigns to raise awareness and sensitize the public about the severity of human rights violations in this domain and their harmful impact on children, and to address cultural acceptance of violence against children promoting instead zero-tolerance of violence.[42] Accordingly, in its guidelines for periodic reports, the Committee requested States parties to submit information indicating whether legislation (criminal and/or family law) includes a prohibition of all forms of physical and mental violence, including corporal punishment, deliberate humiliation, injury, abuse, neglect or exploitation, inter alia, within the family, in foster and other forms of care, and in public or private institutions, such as penal institutions and schools. The reports should also include the educational and other measures adopted to promote positive and non-violent forms of discipline, care and treatment of the child.[43]

50. With respect to corporal punishment as a sentence for juvenile offenders or as a disciplinary measure in penal institutions, the Special Rapporteur recalls the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), which state that juveniles shall not be subject to corporal punishment.[44] Similarly, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty state that all disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, or any other punishment that may compromise the physical or mental health of the juvenile concerned.[45]

51. With respect to corporal punishment in schools, the Special Rapporteur notes that the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) state that no child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.[46] He welcomes the decision of the Commission on Human Rights at its last session to urge all States to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse in schools, and to incorporate in their legislation appropriate sanctions for violations and the provision of redress and rehabilitation for victims and in this context to take measures to eliminate corporal punishment in schools.[47]

52. With respect to what is often referred as moderate chastisement or correction of children in the family home, attention is drawn to a recent case of the European Court on Human Rights, *A. versus the United Kingdom*. The European Court noted that children and other vulnerable individuals, in particular, were entitled to State protection, in the form of effective deterrence, against such serious breaches of personal integrity and therefore, concluded that the law did not provide adequate protection to the applicant against treatment or punishment contrary to article 3.[48] As early as 1982 the European Commission of Human Rights had already rejected an application by Swedish parents who alleged that the 1979 ban on parental physical punishment breached their right to respect for family life. The Commission concluded that the actual effects of the law were to encourage a positive review of the punishment of children by their parents, to discourage abuse and to prevent excesses which could properly be described as violence against children.[49]

53. On the basis of the above-mentioned analysis, the Special Rapporteur believes that any form of corporal punishment of children is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. He therefore calls upon States to take adequate measures, in particular legal and educational ones, to ensure that the right to physical and mental integrity of children is well protected in the public and in the private spheres. He would also welcome information from governmental and non-governmental sources on measures taken to eradicate the practice of corporal punishment of children.

Notes

[1] See in particular "Message by 17 independent experts of the Commission on Human Rights on the occasion of Human Rights Day, 10 December 2001 (E/CN.4/2002/137, annex).

[2] E/CN.4/2002/18, para. 31.

[3] E/CN.4/2002/137, para. 15.

[4] CCPR/C/79/Add. 89, para 17.

[5] CCPR/CO/73/UK; CCPR/CO/73/UKOT, para. 19.

[6] *Brogan and others versus the United Kingdom*, European Court of Human Rights, *Judgement* (Merits), 29 November 1988, paras. 61 and 62.

[7] Ibid., para. 62.

[8] *Brannigan and McBride versus the United Kingdom*, European Court of Human Rights, *Judgements* (Merits), 26 May 1993, paras. 63 and 64.

[9] *Aksoy versus Turkey*, European Court of Human Rights, *Judgement* (Merits and just satisfaction), 18 December 1996, para. 84.

[10] Ibid., para. 83.

[11] Habeas Corpus in Emergency Situations, Inter-American Court on Human Rights, *Advisory opinion*, OC-8/87, 30 January 1987, para. 35.

[12] E/CN.4/Sub.2/1997/19, para. 111.

[13] A/56/156, para. 39.

[14] See E/CN.4/2002/137, para. 7.

[15] A/56/156, para. 39 (f).

[16] Commission on Human Rights resolution 1999/32, para. 5.

[17] A/56/156, para. 39 (h).

[18] See HRI/GEN/1/Rev.5, General Comment No. 8 (Right to liberty and security of persons), 30 June 1982, para. 4.

[19] A/56/156, para. 39 (f).

[20] Ibid.

[21] HRI/GEN/1/Rev.5, General Comment No. 8, para. 3.

[22] See A/56/156, para. 39 (d).

[23] See A/56/156, para. 39 (f).

[24] See A/56/156, para. 39 (j).

[25] CAT/C/XXVII/Concl.5.

[26] See A/56/156, para. 39 (j).

[27] *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* (HCR/IP/4/Eng/Rev.1), para. 176.

[28] Ibid., para. 180.

[29] Guy S. Goodwin-Gill, *The Refugee in International Law*, 2nd edition (Oxford, England, Oxford University Press, 1996), p. 150.

[30] *Chahal versus the United Kingdom*, European Court of Human Rights, *Judgement* (Merits and just satisfaction), 15 November 1996, para. 80.

[31] See A/56/156, paras 34-38.

[32] The coalition of international non-governmental organizations consists of the following: Association for the Prevention of Torture, World Organization against Torture, Fédération internationale de l'action des Chrétiens pour l'abolition de la torture, Fédération international des ligues des droits de l'homme, Human Rights Watch, International Commission of Jurists, International Rehabilitation Council for Torture Victims, International League for Human Rights, International Service for Human Rights, Amnesty International and Redress.

[33] A/56/156, para. 36.

[34] As of May 2002, the following countries had extended standing invitations to the thematic special procedures of the Commission on Human Rights: Austria, Belgium, Brazil, Bulgaria, Canada, Costa Rica, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Georgia, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland.

[35] For more information, see *Global Initiative to End All Corporal Punishment*. Available from http://www.endcorporalpunishment.org

[36] EPOCH-Worldwide is an informal alliance of non-governmental organizations which aim is to end all forms of corporal punishment of children.

[37] See E/CN.4/1993/26, para. 593, and E/CN.4/1997/7, paras 4-11.

[38] Commission on Human Rights resolution 1997/38, para. 9.

[39] HRI/GEN/1/Rev.5, General Comment No. 20, 10 March 1992, para. 5.

[40] Article 19, paragraph 1, of the Convention on the Rights of the Child states the following: "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child".

[41] See CRC/C/34, annex IV, section II (B).

[42] A/57/41, paras. 8 and 14 (a). See also *Report and General Recommendations: Committee on the Rights of the Child*, Day of General Discussion Geneva, 22 September 2000. Available from www.unhchr.ch/html/menu2/6/crcdod.htm

[43] CRC/C/58, para. 88.

[44] General Assembly resolution 40/33 of 29 November 1985, annex, rule 17 (3).

[45] General Assembly resolution 45/113 of 14 December 1990, annex, rule 67.

[46] General Assembly resolution 45/112 of 14 December 1990, annex, para. 54.

[47] Commission on Human Rights resolution 2002/23, para. 4 (m).

[48] *A. versus the United Kingdom*, European Court of Human Rights Judgement (Merits and just satisfaction), 23 September 1998, paras. 22 and 24.

[49] *Seven Individuals versus Sweden*, European Commission of Human Rights, Admissibility Decision, 13 May 1982.

Annex

Joint Declaration on the occasion of the United Nations International Day in Support of Victims of Torture, 26 June 2002

The Committee against Torture, the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture and the United Nations High Commissioner for Human Rights welcome the decision of the Commission on Human Rights at its fifty-eighth session to adopt, and recommend to the Economic and Social Council, the text of the optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. That decision was the result of a decade-long process of consultation and negotiation.

The optional protocol is designed to assist States parties in implementing their obligation under the Convention to prevent torture by providing for the establishment of effective international and national mechanisms for visiting places where persons are or may be deprived of their liberty. Visits to such places by independent multidisciplinary teams of experts have proved to be a very effective way to prevent treatment of detainees that violates international standards. Both the protective and preventive roles of such mechanisms should be stressed.

On the occasion of the United Nations International Day in Support of Victims of Torture, we call upon the States Members of the United Nations at the Economic and Social Council and the General Assembly to give the matter of an effective protocol to the Convention their earnest and immediate attention, and to move towards the final adoption of this instrument.

We also pay tribute to and continue to support those States and organizations of civil society that are committed to ending the practice of torture and are engaged in activities aimed at preventing it and securing redress for its victims.

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Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance: special economic assistance to individual countries or regions

Humanitarian assistance to the Federal Republic of Yugoslavia

Report of the Secretary-General

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Summary

The present report, which covers the situation in Kosovo in separate paragraphs, is submitted pursuant to General Assembly resolution 56/101 of 14 December 2001, in which the Assembly, inter alia, called upon the Secretary-General to continue to mobilize the timely provision of international humanitarian assistance to the Federal Republic of Yugoslavia; and requested him to submit to it at its fifty-seventh session a report on the implementation of the resolution.

The report reviews the major humanitarian, socio-economic and human rights developments in the Federal Republic of Yugoslavia since July 2001. The review of major humanitarian developments focuses on the situation of refugees and internally displaced persons, and explains that the situation continued to normalize. The economic reform process, and its consequences on the most vulnerable, marked the socio-economic situation. The human rights situation continued to improve, but the unresolved issue of missing persons remain an obstacle to better relations between the Federal Republic of Yugoslavia and Kosovo.

The report provides a sectoral analysis of the humanitarian assistance provided by the United Nations and its partners and by the Member States. The appointment of a Resident Coordinator for the Federal Republic of Yugoslavia excluding Kosovo and of a Development Coordinator for Kosovo, marks the transition from relief to development.

The report concludes that the situation in the Federal Republic of Yugoslavia continued to stabilize, leading to a decline in humanitarian needs. The report calls for continued donor support to the most vulnerable populations, in particular, the ethnic minorities of Kosovo.

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 56/101 of 14 December 2001, in which the Assembly requested the Secretary-General to submit a report to it at its fifty-seventh session on the implementation of the resolution. The report covers developments from 15 July 2001 until 30 June 2002.

2. The Federal Republic of Yugoslavia consists of the Republics of Serbia and Montenegro. Owing to the fact that Kosovo is administered by the United Nations, pursuant to Security Council resolution 1244 (1999), the situation in that province is covered in separate paragraphs of the report.

II. Review of major humanitarian developments

3. During the reporting period, United Nations humanitarian operations in the Federal Republic of Yugoslavia have aimed at complementing the relief to development transition process, advocating that development policies promote durable solutions and develop national capacity to meet the basic needs of the most vulnerable, while keeping material assistance tightly focused on the basic needs of those who have no other means of support.

4. The humanitarian response in the Federal Republic of Yugoslavia still covers the needs of one of the largest displaced populations in Europe, consisting of 388,000 refugees from the former Yugoslavia and 231,000 internally displaced persons from Kosovo, and addresses widespread poverty and fragile basic services. The Government's reform and recovery programme has resulted in a number of short-term negative effects (e.g. rising unemployment and costs of basic services), which have affected particularly the most vulnerable persons in society. However, the number of people dependent on humanitarian assistance is decreasing steadily as development takes root, national capacity is rebuilt and the opportunities for durable solutions expand.

5. Improved political relations with Croatia and Bosnia and Herzegovina allowed the Office of the United Nations High Commissioner for Refugees (UNHCR) to promote programmes which focus on voluntary repatriation, notwithstanding persistent problems regarding the repossession of property, particularly in Croatia. An inter-ministerial working group, supported by UNHCR, the United Nations Development Programme (UNDP) and the Office for the Coordination of Humanitarian Affairs has prepared "A National Strategy for Refugees and IDPs", which gives refugees in the Federal Republic of Yugoslavia the option either to participate in a local settlement programme to permanently remain/settle in that country, or to repatriate voluntarily.

6. The Stability Pact for South-Eastern Europe, which the Federal Republic of Yugoslavia joined in October 2000, provides a regional forum on refugee issues as well as democratization, reconstruction and security. The Pact recently confirmed its strategic alignment with the European Union (EU) accession and the objectives of the EU Stabilization and Association Process. In this context, it has invited the South-East European Cooperation Process to strengthen the organization's structure and allow it to act as a coordinated regional voice.

7. The region of southern Serbia contiguous with Kosovo and the former Yugoslav Republic of Macedonia is among the poorest and least developed in the country and includes a significant ethnic Albanian minority. For these reasons, it has been a particular focus of United Nations humanitarian and development efforts, which have included the establishment of a United Nations System Inter-Agency Support Office in Vranje. The peace agreement of May 2001 is fragile but holding, and has allowed the Government of the Federal Republic of Yugoslavia and the international community to initiate a series of peace-building activities. The Organization for Security and Cooperation in Europe (OSCE) has also played a key role in the area, bringing community leaders together and training a multi-ethnic police force. Of the 16,000 ethnic Albanians who left southern Serbia during the conflict, 6,000 have returned to their homes in the former ground safety zone. Returns are expected to continue in 2002. Efforts to promote a regional development strategy, including the recent agreement to expand and transform the role of the Government coordination body for the area is anticipated to help build sustainable development on the current recovery efforts.

8. The conflict in the former Yugoslav Republic of Macedonia, which forced some 10,000 mainly ethnic Albanian refugees to flee across the border into the

Federal Republic of Yugoslavia (excluding Kosovo), also abated last summer and all but 200 refugees have returned. Inter-agency emergency preparedness plans continue to be reviewed on a regular basis.

9. Similarly, many of the 81,000 refugees who had fled the conflict in the former Yugoslav Republic of Macedonia for Kosovo have returned, following the framework agreement between ethnic Albanians and the Government in the former Yugoslav Republic of Macedonia in August 2001. By the end of May 2002, only about 3,500 refugees remained in Kosovo, almost all of them residing with host families. United Nations agencies and international aid organizations, together with local partners, provided those refugees with humanitarian assistance throughout the autumn and winter and helped the United Nations Interim Administration Mission in Kosovo (UNMIK) to ensure that local services were accessible to them. UNHCR and the Office for the Coordination of Humanitarian Affairs, in cooperation with other United Nations agencies and UNMIK, revised related emergency preparedness and response plans in March 2002. Reconciliation efforts in southern Serbia and the reconstruction of homes by UNHCR in the Presevo municipality facilitated the return of some 4,000 to 5,000 ethnic Albanians, who had fled the conflict in that region during the period from 1999 to early 2001. However, some 10,000 internally displaced persons remain displaced from southern Serbia, mostly in the Gnjilane area of Kosovo. A durable solution for this caseload is still being sought.

10. In accordance with the Constitutional Framework for Provisional Self-Government in Kosovo, established in May 2001, elections were held in November 2001, resulting in the establishment of the new Assembly with minority participation, the selection of a President and Prime Minister, and the establishment of the bodies within the Constitutional Framework. In addition, the signing of the UNMIK/Federal Republic of Yugoslavia Common Document on 5 November 2001 established a framework for coordinating the return of displaced minorities from the Federal Republic of Yugoslavia and cooperation between UNMIK and the Kosovo Coordination Council in Belgrade.

11. An Office of Returns and Communities was established within UNMIK in order to coordinate the return process. This office is substantively supported by UNHCR. To address minority issues, an Advisory Board on Communities was established in December 2001, composed of the Heads of UNMIK pillars, United Nations agencies, the Council of Europe and the Office of Returns and Communities, to advise Michael Steiner, who I appointed as my representative for Kosovo to succeed Hans Haekkerup in February 2002. In spring 2001, a Cabinet-level inter-ministerial post for minority returns was established, as well as a minority returns adviser post within the Office of my representative for Kosovo, both to be filled by ethnic Serbs.

12. There has been a reduction of direct humanitarian assistance provided by the international community as most of the vulnerable population in Kosovo (ethnic Albanian and minorities) are now enrolled in the social assistance scheme of the UNMIK Department of Labour and Social Welfare. Other vulnerable persons that are unable to qualify for the social assistance scheme (approximately 53,000 individuals) are assisted by a World Food Programme (WFP)/UNHCR food safety net programme.

13. Returns of internally displaced persons to Kosovo have been few. Despite some improvement, lack of security, restrictions on the freedom of movement and delays in the repossession of property remain the main obstacles to return, in addition to the socio-economic and reconstruction needs of minority returnees. According to UNHCR estimates, only about 3,500 internally displaced persons have returned to Kosovo from Serbia and Montenegro between 2000 and 2002. Most returns have been spontaneous, with only a few hundred being able to return via organized efforts by the international community during 2001 and 2002. However, the resolve by UNMIK and the international community to reduce obstacles to return in 2002 focuses most importantly on issues of security, housing and employment. Efforts include a revision of the United Nations consolidated humanitarian appeal in June 2002 to reflect a more coordinated effort on these issues by United Nations agencies with UNMIK. My representative for Kosovo has made minority returns a priority objective in 2002.

III. Review of socio-economic developments

14. While, overall, there has been much improvement over the past year, the most vulnerable among the resident, refugee and displaced populations have borne much of the negative effects, although some were able to take advantage of new economic opportunities. The economic reform process has led to increased unemployment, which places a growing burden on the capacity of social welfare. It is estimated that, in Serbia, between 50,000 and 60,000 workers will lose their jobs in 2002, adding to the current unemployment figure of 800,000 (30 per cent). Official estimates are that over one third of the Federal Republic of Yugoslavia citizens live below the poverty line.

15. The agreement brokered by the EU High Representative, Javier Solana, contributed to improving and rationalizing relations between the Republics of Serbia and Montenegro. However, political uncertainties still surround the future of the federal system and these continue to hamper the overall quality and speed of the reform process. If reforms proceed on track, the longer-term outlook for effective recovery and sustainable development is positive.

16. Gross domestic product (GDP), which was reported as the lowest in Europe in 2000, increased by 6.1 per cent in 2001 — still 40 per cent below the 1989 level prior to the dissolution of the former Socialist Federal Republic of Yugoslavia. An increase in agricultural output in 2001 greatly contributed to the overall increase in GDP. The inflation rate dropped from 113 per cent in 2000 to 40 per cent in 2001 (December 2000/01), owing mostly to the correction of inherited price disparities. Expectations are that the inflation rate in 2002 will not exceed 20 per cent. The real purchasing power of the 2001 average salary increased by 18.5 per cent, compared to 2000.

17. The Kosovo 2002 budget bolsters each phase of the transition reform. The budget supports important initiatives to expand Kosovo's private sector towards a market-based economy in years to come. In addition, about 93 per cent of the 2002 budget is funded from local revenues. On 13 June 2002, my representative adopted two regulations that would pave the way for privatization of socially owned and public enterprises, providing the means to move the economy of Kosovo a step closer to a free market economy. Unemployment in Kosovo continues to affect about one half of the population. On the positive side, improvements in agricultural production increased substantially in 2001. UNMIK has given high priority to efforts of fighting corruption in the public and private sectors and reducing criminal activities. Among other developments, Euro Conversion in Kosovo was completed successfully by 28 February 2002.

IV. Review of human rights developments

18. The Government of the Federal Republic of Yugoslavia is committed to the process of reforming the main institutions, based on principles of the rule of law and the protection of human rights. Key legislation has been passed, inter alia, to update the Criminal Code and the Law on Criminal Procedure; a package of measures was passed to improve the efficiency and quality of the judiciary; and a new Federal Law on Minorities provides a sound legal framework for the protection of human rights of all minorities in the Federal Republic of Yugoslavia, including Roma. Now the challenge is to effectively implement this legislation throughout the country. If these positive developments are to be sustained, substantial reforms — particularly in the areas of judicial and penal institutions, media, police and armed forces — will be required. The process of reform remains chronically under-resourced. Continued and substantial support from the international community will be needed to create national institutions capable of protecting the rule of law and human rights.

19. The human rights situation of the majority of the population in Kosovo has improved since the end of the Milosevic regime, and progress has been made to move the province towards increasingly responsible local self-government. Overall, three areas of concern remain: (a) the return, integration and protection of ethnic minority communities in Kosovo; (b) the rule of law, including the independence of the judiciary; and (c) the extent to which human rights standards are fully integrated into the policies and practices of the new Government, UNMIK and the Kosovo Force (KFOR). Moreover, the status of women and girls remains extremely low in the province. There has been a gradual improvement in the overall security situation with a continued decline in the number of serious acts of violence against minorities.

20. Notwithstanding the above, the lack of freedom of movement remains the key issue that prevents minorities from living a normal life in Kosovo. KFOR has begun to replace fixed security points around minority enclaves with a system that relies on roving patrols and a flexible response to possible security threats. This is part of a general strategy to gradually eliminate enclaves and promote integration of minorities more fully into normal life within Kosovo.

21. Despite progress on the transfer to Kosovo of the remaining Kosovo Albanian prisoners, the unresolved and sensitive issue of missing persons from both communities remains an obstacle to better relations between the parties.

V. Assistance provided by the United Nations and its partners

A. Coordination arrangements

22. The United Nations Humanitarian Coordinator for the Federal Republic of Yugoslavia (excluding Kosovo), with support from the Office for the Coordination of Humanitarian Affairs, was responsible for coordination until March 2002, when that responsibility was transferred to the United Nations Resident Coordinator.

23. The appointment of a United Nations resident coordinator for the first time in a decade reflected the changed relations between the Federal Republic of Yugoslavia and the international community, as well as the clear commitment to a development agenda both within and outside the Federal Republic of Yugoslavia. To coordinate and link the breadth of relief and development issues, the Resident Coordinator initiated a series of thematic groups, including human security, poverty, governance and the millennium development goals. The inclusion of humanitarian coordination under the resident coordinator function also strengthens links with national authorities and relevant regional and international development structures. Under the auspices of the Resident Coordinator, the Office for the Coordination of Humanitarian Affairs continues to lead support to the overall coordination of humanitarian affairs through the human security thematic group, while operational agencies lead sectoral relief coordination. United Nations agencies also lead specific subgroups focusing on internally displaced person and Roma communities.

24. Similarly, the United Nations Humanitarian Coordinator for Kosovo took the lead in humanitarian coordination within the United Nations country team in Kosovo until the end of September 2001. In view of the general normalization in Kosovo and transition to development assistance, this function shifted to the acting United Nations Development Coordinator and, subsequently, to the permanent Development Coordinator upon his arrival in February 2002. The Office for the Coordination of Humanitarian Affairs provided direct support to the Humanitarian and Development Coordinators throughout this reporting period. Close cooperation continues between the various United Nations agencies, non-governmental organizations, donors and UNMIK to ensure that vulnerable populations are provided with adequate and timely assistance. As of December 2001, the new UNMIK office has taken the lead in the overall coordination of minority returns for returns and communities. This office works closely with UNHCR and regional and municipal working groups on return issues. Municipal authorities are taking on increasing coordination responsibilities at the local level.

B. Winterization efforts

25. A winter energy crisis was averted through significant imports of energy, domestic measures and humanitarian assistance. During the reporting period, responsibility for the macro-energy sector was gradually transferred from the Office for the Coordination of Humanitarian Affairs to UNDP. During this time, international support to the sector amounted to approximately US$ 260 million. In March 2002, UNDP supported a rehabilitation conference hosted by the Government of the Federal Republic of Yugoslavia and attended by major donors.

26. UNHCR delivered coal and heating oil to 27,429 refugees and internally displaced persons in collective centres and specialized institutions. Heating stoves and blankets were delivered to approximately 22,608 refugees and internally displaced persons in private accommodation and collective centres. The United Nations Children's Fund (UNICEF) assisted with the provision of heating fuel, coal and stoves to schools, as well as to maternity wards and specialized children's institutions throughout the country.

27. UNMIK and Kosovo local authorities took the lead in coordinating the winterization programme for 2001/02. The aim of the programme was to provide shelter, firewood, food and non-food items to needy families and vulnerable population groups. UNHCR assisted in the distribution of the firewood for refugees and minorities from the former Yugoslav Republic of Macedonia.

C. Food aid

28. WFP is the main agency responsible for providing food aid to vulnerable groups and, together with the International Committee of the Red Cross (ICRC) and non-governmental organization partners, assists refugees, internally displaced persons and social cases. With the improvement of the economic situation, WFP concluded its assistance to social cases and pensioners in June 2002, and as of 1 July 2002, continued to assist 170,000 vulnerable refugees in Serbia and 4,000 in Montenegro. Assistance will gradually decrease and will eventually be discontinued in December 2003. WFP has identified international non-governmental organizations as implementing partners and is working towards integrating food aid within the social policy reform matrix of the Ministry of Social Welfare.

29. Along with WFP, ICRC also introduced revised beneficiary selection criteria to more precisely identify the most vulnerable persons by taking into account household vulnerability and poverty levels rather than beneficiary classification. Food assistance delivered by ICRC decreased from 116,000 beneficiaries in July 2001, to 50,000 as of April 2002. In Montenegro, WFP co-coordinated food assistance to internally displaced persons (an average 9,000 beneficiaries for the latter half of 2001). Furthermore, UNHCR provided fresh food to collective centres.

30. Under the food Safety Net programme, WFP assisted 106,300 social cases in Kosovo, thus supplementing the cash-based UNMIK social assistance scheme. Working closely with UNHCR, WFP also assisted refugees from the former Yugoslav Republic of Macedonia. Based on its exit strategy, WFP reduced its caseload from 106,300 beneficiaries (July 2001) to 53,626 (January 2002). The reports emanating from two United Nations-supported food assessment studies suggested that food distribution should no longer be considered as the most appropriate means of assistance for poor households. WFP phased out its food assistance in April 2002, concentrating in its last three months on the distribution to both "safety net" and refugee beneficiaries. WFP also drew up a contingency plan to provide returnees to Kosovo with a three-month food package which it provided in Serbia after June 2002.

D. Shelter

31. UNHCR provides financial support to the Serbian and Montenegrin Refugee Commissioners in support of collective centres which host or accommodate some 42,500 vulnerable refugees and internally displaced persons.

32. During the Kosovo programme of 2001, international donors supported the rehabilitation and reconstruction of 8,800 houses (360 for minorities). An assessment in June 2001 showed that 10,000 to 12,000 families are in need of reconstruction and rehabilitation assistance for 2002. This figure does not include returnee families. International donor commitment for 2002 will only cover 2,500 houses. Of this commitment, 10 per cent is reserved for minorities and funding for additional houses will be held as a reserve for minority return. During the winter, UNHCR provided a total of 2,115 warm rooms as basic shelter for the former Yugoslav Republic of Macedonia refugees and internally displaced persons from southern Serbia and a total of 247 minority and returnee families were assisted with rigid shelters.

E. Health

33. Funding for health-related humanitarian assistance decreased over the reporting period, while planning and implementation of activities aimed at sustainable development and reforms of the health sector of the Federal Republic of Yugoslavia increased. The main focus of the coordination activities of the World Health Organization (WHO) was therefore aimed at ensuring a smooth transition from humanitarian to developmental health activities in the country. Together with a number of other agencies, WHO supported several capacity-building initiatives for the health authorities of the Federal Republic of Yugoslavia.

34. UNICEF, WHO, UNDP and the World Bank, as members of the Joint United Nations Programme on HIV/AIDS (UNAIDS) Theme Group in the Federal Republic of Yugoslavia, supported the establishment of the Republic AIDS Committees and country efforts to prepare, adopt and implement a multisectoral HIV/AIDS prevention strategy.

35. UNICEF reinforced its health education programme, which focuses on infant feeding practices, immunization, visiting nurses and paediatricians and the vulnerable Roma community. UNICEF distributed various types of medical aid to southern Serbia, as well as clothing, footwear and school supplies. In addition, UNHCR provided medical assistance to some 25,000 refugees and internally displaced persons.

36. In many instances working jointly with UNICEF, WHO increased support to the Department of Health and the Institute of Public Health and put in place additional preventive measures and expertise to sustain services in Kosovo. Critical intervention covered disease surveillance, tuberculosis control, outreach vaccination programmes and polio eradication, with particular attention to minority areas. WHO provided each municipal health facility with one of its first response kits.

37. UNICEF is rehabilitating the maternity wards and a children's dispensary in the Mitrovica North hospital, which serves Kosovo Serb communities from all Serb enclaves across Kosovo. The United Nations Population Fund (UNFPA) continued to support improvements in reproductive health information and services in Kosovo, including reproductive health and rights, training of health workers, rehabilitation of hospital maternity units, provision of medical equipment and provision of contraceptives. The International Organization for Migration (IOM) continued to facilitate medical evacuation and to improve psychosocial services, school health education and awareness concerning HIV/AIDS in Kosovo. Together with the Swedish Migration Board, IOM coordinated activities of Swedish medical teams, which performed medical procedures otherwise not available in Kosovo. Access to health services remained problematic for isolated communities and some minority areas.

F. Water and sanitation

38. Until the end of 2001, UNICEF focused on the improvement of drinking water supply and the overall sanitary condition of vulnerable populations in small urban, peri-urban and rural areas with large concentrations of refugee and displaced persons. Other humanitarian assistance included the rehabilitation and upgrading of water supply and sewage systems to refugee and internally displaced persons in collective centres.

39. Critical intervention by WHO in Kosovo included water and sanitation assessment monitoring, surveying, and coordinating good water quality and sanitation services in areas of increased need, particularly those affected by the large influx of refugees from the former Yugoslav Republic of Macedonia during the summer of 2001. In 86 schools, UNICEF completed the upgrading of water and sanitation facilities, conducted maintenance training and launched a hygiene education project in cooperation with the local Institute for Public Health. In order to improve access to and the quality of potable water and sanitation facilities in communities hosting refugees from the former Yugoslav Republic of Macedonia, UNHCR supported the rehabilitation and construction of springs, wells, reservoirs and other water-supply facilities in 10 villages in the Gnjilane and Prizren regions, benefiting an estimated 20,000 persons, 29 per cent of which are refugees.

G. Education and child welfare

40. In the Federal Republic of Yugoslavia (excluding Kosovo), UNICEF continued to focus on improving educational policies, teaching and learning methods, the curriculum and rehabilitating and equipping school facilities. Integrating displaced and refugee children, Roma and children with disabilities into the school system remained a priority. UNICEF also assisted local associations in southern Serbia in developing a project designed to benefit 700 children with disabilities and extended its Active Learning programme to 5,000 new teachers and trained teachers in Montenegro to encourage the social and civic development of children.

41. Education programmes in peace and tolerance were integrated into the curriculum and the Ministry of Education was supported in training 3,000 teachers through civic education lessons.

42. With respect to non-formal education, programmes included the opening of 20 community play centres and the equipping of 20 kindergartens. Local kindergarten parent-teacher associations were established in Serbia benefiting 20,000 pre-school children. In Montenegro, training was organized in 86 childcare centres.

43. Foster families received ongoing support in the form of in-kind donations and benefited from the improvement of social services. Childcare institutions (e.g. orphanages and schools for children with special needs) were provided with basic hygiene items, clothing and bedding. UNICEF also supported four local non-governmental organizations whose mobile teams were providing psychosocial support to refugees and internally displaced persons in Serbia.

44. UNICEF reconstructed and rehabilitated some 132 schools for all ethnic communities in Kosovo. The challenge now is to encourage multi-ethnic participation in schools and to provide "catch-up" education for Roma and Ashkaelia children. Promoting conflict resolution, peace and tolerance among the youth of Kosovo is a key component of activities. For youth needing counselling and psychosocial rehabilitation, and for those in conflict with the law or otherwise at risk, UNICEF has supported the establishment of "drop-in centres" for referral of young people by police and social workers. These centres provide a safe social space, professional counselling and activities and training programmes. UNICEF is working with UNHCR and the local social welfare centres to provide flexible outreach services to minority, refugee and returnee children and to sensitize, and build capacity among, municipal social workers.

H. Agriculture

45. The Food and Agriculture Organization of the United Nations (FAO) implements programmes in southern and central Serbia designed to improve the capacity and skills of vulnerable vegetable and fruit producers. Those programmes utilize humanitarian parameters to identify beneficiaries, and focus on improving business-like aptitudes, forming producer or wholesaler associations and raising the levels of marketing skills. Pilot activities are being carried out in Vojvodina to facilitate access of long-term refugees to arable land. The programme, linked to the UNHCR resettlement projects, investigates suitable methodologies in assisting refugee farmers in establishing profitable agricultural enterprises, compatible with local municipal requirements and community acceptance.

46. Following the provision in 1999 and 2000 of emergency assistance to the Kosovo agricultural sector, agricultural production was quickly restored to near pre-conflict levels. Consequently, FAO programmes have adopted transitional approaches towards rehabilitation and longer-development of the sector. The Emergency Farm Reconstruction Project funded by the World Bank provides livestock, farm machinery and training to vulnerable families, training and equipment to private veterinarians and technical assistance to the Kosovo Ministry of Agriculture, Forestry and Rural Development. FAO has also strengthened seed multiplication project initiatives in the forestry sector and has promoted private sector small-scale group enterprises to revitalize the rural economy. However, the need for continued donor assistance persists to support minority farmers and returnees to rural areas, in order to create conditions that will lead to sustainable returns.

I. Promotion of durable solutions

47. A major focus of international humanitarian efforts in the Federal Republic of Yugoslavia is to seek durable solutions for the large displaced populations by promoting repatriation, resettlement and local integration.

48. To further voluntary repatriation, UNHCR continues to implement the 1998 protocol on organized return between the Federal Republic of Yugoslavia and Croatia, and to assist spontaneous returnees to Bosnia and Herzegovina. For those refugees opting to integrate into the Federal Republic of Yugoslavia, UNHCR implements a local settlement programme. Already some 3,500 persons have benefited from housing projects and more than 25,000 persons from various income-generating activities (including microcredit schemes), and elderly homes are being expanded to accommodate elder refugees in need of special care.

49. The returns of internally displaced persons from Kosovo have been few. During this reporting period, about 270 were able to return to Kosovo through the UNHCR return programme, while another 1,800

returned spontaneously. In support of the return programme, UNHCR also undertakes "Go and see" visits to Kosovo as well as "Come and inform" visits from Kosovo. ICRC is also a key actor in providing the bulk of material relief assistance to internally displaced persons, in addition to protection services and promotion of durable solutions.

50. IOM undertakes medical screening and the resettlement of refugees to third countries, principally to the United States of America, Canada and Australia. In coordination with UNHCR, a joint refugee-processing team screens resettlement applications. IOM also implements a vocational training programme for internally displaced persons in southern Serbia to facilitate their reintegration into Kosovo.

51. In southern Serbia, UNDP leads a Rapid Employment Programme designed to create job opportunities for unemployed youths, ex-combatants and vulnerable members of the population through labour-intensive public works. Over 3,000 persons per month are expected to be employed throughout 2002.

52. Significant progress was made in finding durable solutions for the majority population in Kosovo, through support of agricultural production, small-scale income-generation activities and most importantly, through the establishment of the new provisional institutions of self-government. Moreover, the responsibilities of certain governmental key services were transferred to municipal authorities. The social assistance scheme has been expanded to cover the majority of most vulnerable population groups. On the negative side, little progress has been made to provide durable solutions for ethnic minorities to improve their freedom of movement and by allowing full access to employment opportunities and government services. Progress in creating conditions for sustainable returns for larger numbers of minority returns in 2002 will be essential if larger-scale returns are to be feasible in 2003 and 2004. Resolution of property claims of minorities by the Housing and Property Directorate, construction of housing, creation of employment opportunities, a more secure return environment and integration with the majority population are necessary ingredients for durable returns, but have yet to be realized. Strong and vocal support for the return process by the new Constitutional Framework for Provisional Self-Government will be essential. However, presently, the consensus of the international community is that conditions are not in place for large returns of minorities to Kosovo. UNMIK has developed a concept paper, entitled "The right to sustainable return", which lays out the principles that should guide the approach for a sustainable returns process for internally displaced persons and refugees.

53. IOM has played a key role in supporting the rejuvenation of the labour market and the reintegration of former members of the Kosovo Liberation Army.

54. The World Food Programme, as part of its phase-out strategy, led capacity-building efforts resulting in the formation of the Consortium for Inter-ethnic Development, made up of the six local non-governmental organization partners of WFP. The Consortium will address livelihood assistance to vulnerable households, inter-ethnic reconciliation at the community level, substance abuse prevention and health service multi-ethnic mobile clinics. It has been endorsed by the other United Nations agencies.

J. Environmental damage

55. The United Nations Environment Programme (UNEP), together with the implementing agency, the United Nations Office for Project Services (UNOPS), is undertaking clean-up operations at a number of sites which pose a threat to human health as a consequence of military actions during 1999. Implementation of high priority projects started in 2001 at four such "hot spots" and is expected to be completed by the end of 2002.

56. UNDP is also assisting the local authority in introducing an air pollution monitoring system in the municipality of Pancevo, which has a high concentration of petrochemical industries.

57. In Kosovo, recent tests indicate that current levels of atmospheric lead exposure in the vicinity of the Trepca smelting plant in Mitrovica, closed by UNMIK two years ago, continue to exceed WHO standards. UNMIK has embarked on a public health campaign to inform residents, workers and local health practitioners of the high levels of lead and to offer testing, advice and medical treatment. UNEP collected samples of soil from 11 of 112 sites that were identified as being targeted by ordnance containing depleted uranium. The analysis of the samples showed only low levels of radioactivity. Furthermore, the results suggested that there was no immediate cause for concern regarding toxicity. However, major scientific uncertainties persist

over the long-term environmental impacts of depleted uranium, especially with regard to the pollution of groundwater.

K. Mine action

58. UNICEF and ICRC implemented unexploded ordnance awareness programmes in schools in the Federal Republic of Yugoslavia until the end of 2001 (mostly focused on southern Serbia along the administrative boundary with Kosovo).

59. The UNMIK Mine-Action Programme has successfully completed its objectives, and the problems associated with landmines, cluster munitions and other items of unexploded ordnance in Kosovo have virtually been eliminated. Although it may take some years to completely eradicate all items of explosive ordnance in Kosovo, the current level of contamination no longer impedes social and economic development within the Province.

L. Human rights

60. In the Federal Republic of Yugoslavia (excluding Kosovo), the work of the Office of the High Commissioner for Human Rights (OHCHR) concentrates on adherence to the rule of law, administration of justice, minority rights and protection of detained persons. The Office provides policy advice and technical support to the Federal and Republic Governments, and to relevant national non-governmental organizations to ensure that institutional reforms are compatible with human rights norms.

61. IOM has implemented capacity-building activities for the police in the field of counter-trafficking, with specific actions such as shelters to assist victims of trafficking.

62. UNHCR, UNICEF, the Office for the Coordination of Humanitarian Affairs and UNDP also include human rights dimensions in their work, often providing policy advice and technical support to the Government on the reform of the juvenile justice system, education and social welfare system, strengthening alliances with civil society, non-governmental organizations, community leaders, and the media. The Office for the Coordination of Humanitarian Affairs issued two humanitarian risk-analysis reports highlighting the human rights situation of Roma and internally displaced persons in the Federal Republic of Yugoslavia.

63. OHCHR continues to monitor the human rights situation in Kosovo and is currently preparing a report on the human rights situation. The Norwegian Refugee Council, with its Civil Rights Projects, continues to provide free legal aid to minorities, internally displaced persons and refugees. Of the more than 6,000 clients received in 2001, 48 per cent belonged to minority groups (Serbs, Ashkaelia, Roma, Egyptian and Bosniak) at risk of displacement. A small number of refugees from the former Yugoslav Republic of Macedonia were assisted in cases related to documents and social assistance. The Civil Rights Project maintained good working relationships with the Ombudsperson's Office and the Housing and Property Directorate and was able to refer large numbers of cases to these institutions.

VI. Assistance provided by Member States

64. Funding for humanitarian assistance to the Federal Republic of Yugoslavia is mobilized through the United Nations consolidated appeal for south-eastern Europe. Of the US$ 148 million requested for the Federal Republic of Yugoslavia (excluding Kosovo) in the 2001 (revised) appeal, $83 million was received, covering 56 per cent of the funding requirements. For Kosovo, of the revised total of $134 million for 2001, $46 million was received, covering 35 per cent of the requirements, respectively.

65. In the 2002 consolidated appeal, of the $75.8 million requested for the Federal Republic of Yugoslavia (excluding Kosovo), $11.5 million had been received as at 10 May 2002. For Kosovo, $28.7 million was requested, and only $20,166 had been received as at 10 May 2002. Agencies have been able to mitigate this chronic underfunding by prioritizing the received funds, plus any carry-over and unearmarked funds, towards minimal direct assistance programmes. However, progress has been hampered with regard to programmes of less direct assistance, such as supporting national capacity in essential public service sectors (health, education, social welfare) and promoting human rights. If additional funding is not quickly forthcoming, most agencies will have to further reduce already scaled-down programmes.

66. Major additional assistance for Federal Republic of Yugoslavia (excluding Kosovo) includes relief programmes of the European Commission Humanitarian Office (ECHO), which in 2001, amounted to over 48 million euro and are budgeted at approximately 36 million euro in 2002. Recovery and reconstruction programmes implemented by the European Agency for Reconstruction amounted to 256 million euro in 2001 (192 million euro for the 2002 budget), and focused on energy, health, agriculture and business development. The bilateral relief projects of European States have also been significant, while outside Europe, the United States has been a major supporter of UNHCR and non-governmental organizations on programmes for refugees and internally displaced persons, and also funds over $200 million on a five-year programme to develop civil society. Further information on funding of humanitarian programmes, including donations by individual Member States, can be obtained through the financial tracking system of ReliefWeb (www.reliefweb.int).

67. At the donors' conference chaired jointly by EU and the World Bank in June 2001, over US$ 1.2 billion was pledged in support of the reform and recovery programme of the Government of the Federal Republic of Yugoslavia, which aims to feed into the EU Stabilization and Association Agreement Process. Additional agreements include a 66 per cent debt reduction with the Paris Club of donors, plus $825 million in loans at favourable conditions with the International Monetary Fund.

68. Building national capacity across all sectors is a priority of the reform and development effort. For example, a multi-donor Capacity-Building Fund has been established through UNDP, assisting over 12 institutions and ministries. The Council of Europe, OSCE, the United States Agency for International Development (USAID), United Nations agencies and a range of other actors are engaged in efforts to improve governance and democracy by strengthening parliament, the judiciary, the media, local authorities and services.

VII. Observations

69. Democratic reform in the Federal Republic of Yugoslavia has stabilized the situation within the country and around the regions of south-east Europe. Although a number of contested issues, such as the status of Kosovo, the relations between Serbia and Montenegro and ethnic tensions in southern Serbia and the former Yugoslav Republic of Macedonia, retain the potential to cause conflict in future, the overall risk of large-scale conflict and population displacement is declining as further progress is made in developing the structures and relationships necessary for resolving contested issues in a peaceful manner.

70. In this environment, the priority for the humanitarian community is to establish linkages with the development agenda and, in particular, the formulation of policies that take account of the needs and structural problems of refugees, internally displaced persons and the most vulnerable persons in society. As the transition continues — with new opportunities for durable solutions being provided, capacity of State basic services being increased and the need for humanitarian assistance being reduced — the country still hosts more than 600,000 refugees and internally displaced persons, and specific vulnerable groups remain dependent on humanitarian assistance to meet their basic needs and help them to rebuild their lives.

71. Progress on durable solutions for the Kosovo internally displaced person population, in particular, is difficult and protracted, and is perhaps the most important humanitarian issue at the close of the reporting period. While the overall situation in Kosovo has continued to improve during the past year, the slow pace of returns of ethnic minorities and continued restrictions on the freedom of movement of minorities within Kosovo remains a great cause for concern. Improvements in the humanitarian situation of minorities is dependent on a strong commitment by the new Kosovo Government to support a multi-ethnic society, reconciliation between majority ethnic Albanians and minorities and the return of minorities presently outside of Kosovo to their former homes.

72. **While humanitarian needs have declined significantly since 2001, continued donor support to United Nations agencies in the short and medium-term will be crucial to meet immediate basic needs of residual caseload and help develop sustainable solutions for them. On the other hand, humanitarian agencies should continue to maintain sufficient monitoring and emergency response capacity, to respond to adverse short-term effects on**

some of the most vulnerable populations of the reform and recovery process.

73. **As the humanitarian needs in the Federal Republic of Yugoslavia are now substantially reduced, the General Assembly may wish to consider whether a report on the humanitarian situation would still be required.**

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Item 41 (b) of the preliminary list*
Final review and appraisal of the implementation of the United Nations New Agenda for the Development of Africa in the 1990s

Implementation of the programme for the Second Industrial Development Decade for Africa

Report of the Secretary-General**

Summary

The present report of the Secretary-General is a follow-up to the implementation of General Assembly resolution 56/187, entitled "Second Industrial Development Decade for Africa (1993-2002)", adopted on 21 December 2001. The resolution calls for a review of the implementation of the programme of the decade as well as lessons learned during this period. Since the overall task set up by the resolution is to make the review of the programme an integral part of the review and appraisal of the United Nations New Agenda for the Development of Africa in the 1990s, the current summary covers only recent activities in the programme of the decade, especially in view of the information and conclusions provided in the previous report of the Secretary-General submitted on the same subject in 2001 (A/56/139). The present report, therefore, mainly reviews progress made in the implementation of the programme during 2001 and, to some extent, during 2002. The report is composed of three main chapters. Chapter I examines the economic and industrial development trends in Africa as well as constraints to the industrialization process of the continent. Chapter II reviews activities undertaken by the Economic Commission for Africa and the United Nations Industrial Development Organization within the framework of the implementation of the Second Industrial Development Decade for Africa and the Plan of Action of the Alliance for Africa's Industrialization, and chapter III presents selected conclusions and recommendations.

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** Submission of the report was delayed in order to undertake adequate consultations with the United Nations Industrial Development Organization.

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I. Economic and industrial development trends in Africa

A. Update of the economic and industrial situation

1. During 2001, new efforts were made by the international community and the African countries themselves to develop a new vision of and new approaches to the challenges of development. Following the adoption of the Millennium Declaration, the Third United Nations Conference on the Least Developed Countries and the high-level segment of the substantive session of 2001 of the Economic and Social Council on Africa were major events in the United Nations system to streamline and refocus its assistance to developing countries in general and to Africa in particular. On their own side, African countries adopted the New Partnership for Africa's Development, which is a pledge by African leaders to eradicate poverty and to place their countries on a path of sustainable development and active participation in the world economy.

2. Real gross domestic product (GDP) in Africa increased very modestly to an estimated 3.4 per cent in 2001 from 3.2 per cent in 2000, while per capita GDP growth rate increased marginally to 1 per cent over the same period. The economic growth rate was driven by some improvements in the Arab region and a moderate increase in economic activity in sub-Saharan Africa owing to improved weather and the easing of security problems. The average growth rate for the continent reflects the pattern of the large economies of Algeria, Egypt, Nigeria and South Africa, which together account for about 50 per cent of Africa's GDP.

3. In 2001, despite the modest performance of the African economy as a whole, it is worth noting that 17 African countries achieved rates of growth within the range of 5 per cent, with 16 others reaching rates between 3 and 5 per cent. The number of countries recording negative growth also declined from 9 to 5 per cent.

4. The major factors responsible for the modest growth in 2001 have been linked to the global economic slowdown. Deteriorating demand has led to the collapse of most primary commodity exports and African countries with very high concentrations in non-oil primary commodity exports experienced high losses of foreign exchange earnings. In addition, the continent's growth performance is still constrained by civil wars and social conflicts and by poor economic and political governance. By hampering productive activities and diverting resources from development programmes such constraints have slowed down growth keeping the gross domestic investment (GDI) ratio in 2001 virtually unchanged (20.8).

5. At the same time, estimated net capital flows to Africa fell to $14.35 billion in 2000 from $21.13 billion in 1999. Available statistics on gross foreign direct investment (FDI) flows indicate that, after rising by 18 per cent in 2000 to $1.3 trillion, the global flows of FDI decreased by about 40 per cent in 2001, to $760 billion. In 2001, FDI flows to Africa increased from $9.1 billion to $11 billion, owing to a rise in investment in Morocco and South Africa. Investment was mainly in oil, gas and minerals, and in the tourism sectors of Africa. Only a few economies, including South Africa and Egypt, managed to diversify their internal structure and to achieve an expanded scope of foreign investment.

6. The industrial sector continued to decline in 2001 and the prospects for industrial growth remained uncertain in the majority of sub-Saharan countries. Continuous marginalization of the African economies and their failure to integrate into the global market led to the stagnation of their industries and a dangerously growing gap in technology development and capacity-building.

7. In general, progress achieved in the industrialization of developing countries remains very uneven from one region to the next. While South-East Asian countries have succeeded in raising their share (among developing countries) of manufacturing value-added (MVA) from 25.3 per cent in 1980 to 36 per cent in 2001, and China has raised its share from 10 to 32 per cent over the same period, the sub-Saharan African countries, which have seen their MVA contribution share continually decline, falling from 2.6 in 1980 to 1.4 per cent in 2001, have been increasingly marginalized in the world economy.

8. At the same time the share of the manufacturing value added in GDP in African economies, which was 13.4 per cent in 1990, declined to 12.8 per cent in 1997, and has not changed dramatically in recent years. It appears that the contribution of the manufacturing sector to the GDP of African countries is lower than to

countries in other regions of the world. The overall growth of MVA during the 1990s was negative in all African subregions, except North Africa.

B. Challenges to sustainable development in Africa

Eradicating poverty

9. In 2001, the proportion of people living in extreme poverty in Africa continued to rise, with approximately 52 per cent of the population living on less than $1 per day. In this context, reducing poverty is the biggest development challenge facing African countries in their quest for durable peace and sustainable development.

10. The Millennium Declaration target of reducing poverty by half by 2015 would require African countries to grow, on average, at a rate of 7 to 8 per cent per annum. With a domestic savings rate of 1.8 per cent (compared to a desired rate of 25 per cent), African countries will be unable, in the short term, to mobilize the resources required to achieve this rate of growth from their savings. Against this backdrop, a number of measures will have to be taken to mobilize external resources in the short to medium term.

Financial constraints

11. Private capital flows have not contributed very much to industrial development efforts in Africa. In fact, Africa has been largely marginalized from international private capital markets over the past decade. In 1999, Africa attracted only $10.3 billion, or 5 per cent, of the total flow of $207.6 billion in FDI to developing countries. The challenge for African countries is to ensure confidence in their economies, which includes providing greater transparency, accountability and the rule of law. African countries need to strengthen key institutions, such as the civil service and the judiciary, in order to establish the requisite environment for attracting private resources. They should also improve infrastructure, strengthen financial intermediation and upgrade human capital.

Market access

12. Open access to the markets of industrialized countries is one of the prerequisites for the successful development of the African economies. While some concrete initiatives to improve market access were announced at the Third United Nations Conference on the Least Developed Countries, a combination of continued protection, subsidies, quality and technical standards imposed by importing countries means that access to international markets remains difficult. African countries still face high tariffs on some exports, such as textiles and clothing and some agricultural products, areas in which they have a comparative advantage.

13. The range of standards imposed on products from developing countries in general, and Africa in particular, especially those that exceed internationally accepted regulations, should be re-examined. A World Bank study showed that the "precautionary principle" in food safety standards used by one of Africa's main trading partners will save two lives for every 1 billion people, and could cost nine African countries $700 million in lost exports.

Lack of information and communication technologies

14. In future, improving the competitiveness of the African private sector will increasingly depend on the pace of adoption of information and communication technologies, an area where differences between the development levels in Africa and the rest of the world are even wider. Only 2.5 per cent of the world's televisions are on the continent, where the overall tele-density is still only about 1 per 200 inhabitants; computer penetration is less than 3 per 1,000; and just 1 in 1,500 has access to the Internet, compared to a world average of about 1 in 40. Concerted efforts by Governments to improve communications technologies and access to information and communication technologies are needed to generate the required improvements in firm performance.

15. In recent years, the telecommunications industry in sub-Saharan Africa has been undergoing a revolution of sorts, with market and technology forces gradually eating away at the last vestiges of government-sanctioned monopolies. In an industry once considered a preserve of the State, and long dominated by national parastatals, a new generation of players, led by mobile phone companies, is spearheading the transformation of Africa's communications revolution. Mobile operators continue to attract throngs of new subscribers at the expense of fixed-line operators, setting the stage for their eventual domination of the sector, despite a number of obstacles,

ranging from the rapid maturing of the market to the high cost of mobile services for the mass of people.

Africa's human capital

16. Despite progress in education and health in Africa over the past half century, both the volume and quality of human capital are widely acknowledged as grossly insufficient to meet the challenges of the twenty-first century. The general objective of human resource development for industrialization is to reduce overdependence on imported technical and scientific personnel, while at the same time providing entrepreneurial capabilities and high-level managerial, engineering, technical and operational skills. Ideally, this should also result in significant improvements in competitiveness, as measured by higher productivity levels, better product quality, increased production and sales (both locally and internationally) and improved market access. The ultimate goal is to create a shift away from commodity dependence towards manufacturing at more advanced technological levels.

17. Specific objectives of human resources development are to produce an entrepreneurial cadre that could determine the pace of industrialization and provide the critical capabilities required for research and development and for the managerial, scientific, technological, technical and planning functions on which the industrial sector depends. For policy-making, the challenge, therefore, is to identify the strategic sectors for which investments in human capital are required over the long term.

18. Strengthening human capital for Africa's sustainable development will require a coordinated effort, including public-private partnerships to mobilize financial, technical and other resources in support of community-based interventions. Globalization has brought with it the possibilities for more effective partnerships with civil society, including the private sector and foundations.

Diversification of economies and infrastructure development

19. African countries are rich in natural resources and therefore possess the basis for the structural transformation of their economies. An effective way to increase the value of production and trade is to process the region's abundant primary commodities, moving into higher value-added resource-based industries, concentrating on those products for which there is rising demand. An industrialization strategy that focuses on labour-intensive manufactured exports would also directly address the need for productive employment, reducing both absolute and relative poverty and securing peace and stability. By developing other sectors, including manufacturing and services, diversification could ensure sustainable growth rates and economic stability.

20. One critical task with respect to diversification is the rehabilitation of infrastructure. Over the last two decades, a combination of economic crisis and/or civil war, in addition to poor maintenance, have contributed to the deterioration of physical infrastructure in many African countries. The high transaction costs related to unreliable and expensive power supply and telecommunications and poor transport infrastructure have undermined the development of productive capacities of African economies, contributing to the marginalization of the region in world trade, finance and investment. It has also contributed to a poor supply response to structural adjustment policies and the failure to diversify. Because of its capital-intensive nature, rehabilitating and modernizing Africa's transport, telecommunications and energy infrastructure will be possible only by joining forces with the private sector.

II. Support programmes for implementing the Second Industrial Development Decade for Africa

A. Activities of the Economic Commission for Africa

Introduction

21. During 2001, the first priority of the programme of work of the Economic Commission for Africa (ECA) related to the implementation of the Second Development Decade for Africa focused on the support to and promotion of small, medium-size and micro-enterprises and industries (SMMEs/SMMIs). Guided by the draft resolution prepared for submission to the fifty-seventh session of the General Assembly on the role of ECA in the promotion of information and communication technologies, e-commerce and the development of SMMEs/SMMIs, the Commission is to

work on this initiative in coordination with other relevant United Nations bodies, including the United Nations Industrial Development Organization (UNIDO) and other entities concerned with the development of such enterprises.

International conference on the role of business schools in business and managerial development

22. The other key areas of the work programme for the implementation of the programme of the Second Decade was the linking of selected African business and management institutions to their leading North/South counterparts. A number of business and/or management schools were expected to align themselves with renowned North/South schools. Such linkage would result in development or enhancement of programmes and curricula, as well as the development of virtual business and management education facilities suited to the needs of SMMEs/SMMIs. The actual programmatic citation in the work programme was:

(a) Non-recurrent publication: guidelines on how to build strategic alliances for linking selected African business/management institutions to their North-South counterparts;

(b) Special event: high-level round-table discussion on building strategic alliances for linking selected African business/management institutions to their North-South counterparts.

23. There was a central concern that, since most African countries are reforming economies, the public sector would not and cannot be expected to be the engine of growth. It is the private sector, which is dominated by SMMEs/SMMIs, that will play this role. If the private sector and African entrepreneurs are going to be the engine of growth, they must be empowered.

24. This paradigm shift calls for new approaches and skills in order to empower the private sector. This is the core mission of the business schools. They should not only undertake business and managerial training research to foster business development but also create corporate employees at all levels. The other mission of business schools is to create well-educated and trained self-employed individuals who can run their business competently.

25. It is with the above in mind that ECA convened the conference held at the United Nations Conference Centre from 19 to 21 November 2001. In response to invitations extended to a selected number of university faculties of business, management and administration in Africa, the United Kingdom, Malaysia and the United States of America, the conference attracted 29 international as well as 10 local participants. Invitations were also extended to associations of universities, including the Association of African Universities (AAU), the Commonwealth Association of Universities (CAU) and the International Association of Universities (IAU), as well as to academics, individuals from the private sector, policy makers from selected countries and to representatives of the Regional Economic Communities, the ECA subregional development centres, other United Nations organizations and development partners.

26. The conference was organized in order to seek the views of a cross-section of practitioners, chiefly from business schools, on how to enhance business education in Africa, especially for entrepreneurs in the sectors dominated by SMMEs/SMMIs. Through sharing experiences and views on best practices in business education and aspects of entrepreneurial development, the conference's main objective was to find ways to strengthen the role of business schools in business and managerial development in Africa.

27. The conference focused on how technology can be mobilized to create synergies with entrepreneurship in enhancing business operations in Africa. The meeting was designed to be a gathering of policy makers, academicians, corporate managers and entrepreneurs. They analysed, in a holistic manner, the related problems and agreed to present an action plan, including: the mentoring of entrepreneurs by business schools; defining ways of fostering best practices by business schools; and strategies for building synergies, networks, alliances and thus developing managerial competencies related to enhanced entrepreneurship and business education. The conference also focused on best practices in instructive teaching and management that could be disseminated across the continent.

Project proposal on the development web portal for small, medium-size and micro-enterprises and industries in Africa

28. The Economic Commission for Africa has forwarded a proposal to enhance the competitiveness

and effectiveness of SMMEs/SMMIs, in line with the above-mentioned draft resolution to be presented at the forthcoming fifty-seventh session of the General Assembly, which urges ECA to play a more active role in the promotion of new information and communication technologies and e-commerce and in the development of African SMMEs/SMMIs in coordination with other United Nations bodies concerned with the development of such enterprises.

Justification

29. According to the Organisation for Economic Cooperation and Development (OECD), SMMEs have made a significant contribution to socio-economic development in Africa, providing 60 to 70 per cent of jobs. Owing to the lack of opportunity to promote their products worldwide, and to an inability to access market information related to their business area, their penetration and competitiveness in the regional and global markets is limited. The advancement in the Internet and the convergence between telecommunications and computing provide great potential for SMMEs to promote their goods globally on the Internet and also to access a tremendous amount of information on marketplaces and joint investment ventures. The development and use of web portals will enable SMMEs to increase their visibility and help them promote their products and services. Moreover, the use of the portal by the SMMEs will further create awareness on how new information and communication technologies can assist them to develop their business.

30. The web portal would serve as a common platform for disseminating information generated by the various organizations and individuals involved in promoting SMMEs at national, subregional and regional levels. The main services of the web portal would include: providing business development information, creation and storage of web catalogue of SMMEs products and services, news and current market trends, discussion forums, articles, statistics, best country practices, legal issues, contact addresses of SMMEs and related institutions, training programmes and business opportunities.

Objectives

31. **Short-term**: Within the first year of the project, the web portal aims at providing SMMEs in Africa with facilities that would enable them to create information on their products and services and load them on the web portal so that potential buyers will have access to it.

32. **Long-term**: Over the long term, efforts will be geared towards developing and strengthening capacities of selected SMMEs in member States, ECA subregional development centres, trade points, regional economic communities and the creation of the *SMEnet*. In this regard, UNIDO will play a leading role within the framework of the development of the SMMEs portal.

B. Major activities of the United Nations Industrial Development Organization in Africa

Integrated programmes

33. Reflecting the continued commitment to the industrial development efforts of the continent, 14 integrated programmes are in the process of implementation in sub-Saharan Africa (Burkina Faso, Côte d'Ivoire, Eritrea, Ethiopia, Ghana, Guinea, Madagascar, Mali, Mozambique, Nigeria, Rwanda, Senegal, Uganda and the United Republic of Tanzania), with a combined planning figure of $101.5 million. Underlining the importance accorded to the region, sub-Saharan African countries account for 31 per cent of all UNIDO integrated programmes.

34. UNIDO launched its first regional integrated programme for Africa, initially covering Benin, Burkina Faso, Guinea, Niger, Senegal and Togo. Targeting agro-industries in West Africa, the programme will upgrade capabilities of civil society organizations that provide service to micro- and small industries, particularly in rural areas, in selected agro-industrial subsectors. Two other programmes (in Cameroon and Kenya) entered the final preparatory phase, while programmes are under development for Togo, Niger, Lesotho, Namibia and South Africa.

35. The new process for continuous improvement of programme implementation features an ongoing dialogue with beneficiaries. For instance, following the initial success of the integrated programme for Guinea, it was agreed that future priorities would include a number of aspects ranging from quality improvement and rural entrepreneurship development to a round table for funds mobilization. By enhancing programme impact, the approach improves client satisfaction. A

tangible sign of this support during 2001 was in Nigeria, where a trust fund agreement allocated $5.5 million from the Government to finance the implementation of the UNIDO country service framework for that country.

36. Within the programmes for Mozambique and Uganda, and to build on the success of other National Cleaner Production Centres, new centres were established in both countries.

Regional and subregional programmes

37. In line with its emphasis on regional development issues, UNIDO signed an agreement with the West African Economic and Monetary Union (UEMOA) on a regional programme to support the establishment of an accreditation, standardization and quality promotion system in member States of the Union. UNIDO will implement €8.2 million of a total budget of €12.5 million, financed by the European Union. Similar programmes are presently under formulation for member States of the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC).

38. During 2001, the inauguration of the UNIDO-Africa Investment Promotion Agency Network was an important event. The Network, which functions as a resource group to provide guidance on the design of UNIDO's country and regional-level programmes, also provides a permanent platform for regularized training and continuous linkages between investment promotion agencies and UNIDO Investment and Technology Promotion Offices. The Network acts as a global forum, with the objective of developing low-cost promotion strategies. Surveys are carried out in member States to generate investor perception indicators and forward-looking indexes that shed light on future investment flows.

39. Established in 2000, the UNIDO Regional Industrial Development Centre (RIDC) in Lagos supported efforts in the subregion in various ways. The Centre assisted in the preparation of a meeting of ECOWAS experts on industrial development in West Africa, which was convened at Abuja in February. As part of its interregional activities, the Centre convened a cooperation meeting between ECOWAS and the Common Market of the Southern Cone (MERCOSUR) in May. It also initiated an industrial cooperation dialogue between Nigeria and Malaysia. Two memoranda of understanding, facilitated by the Centre, were signed: the UNIDO-Africa capital alliance partnership for small and medium-sized enterprises development; and the UNIDO-Lagos Business School partnership for small and medium-sized enterprise development in Nigeria.

40. Other regional and interregional initiatives featured various industrial sectors. A proposal for the promotion of seed and grain treatment technologies and development of environmentally friendly seed protectants suitable for rural African farmers aims to improve food production and storage by minimizing environmental contamination risks. Another programme is designed to enhance the capacity to support the transfer of energy-efficient industrial technologies under the United Nations Framework Convention on Climate Change and the Kyoto Protocol to the Convention in the Common Market for Eastern and Southern Africa (COMESA). A regional programme on technology management for sub-Saharan Africa will strengthen national innovation systems in eight African countries.

41. With a view to expanding its development cooperation in Southern Africa and to involving South Africa in this scheme, UNIDO undertook its first technical appraisal mission in November to come up with the country's needs assessment and to plan its technical assistance activities in the subregion. Among follow-up requests received was one for the establishment of a national cleaner production centre, implementation of the Stockholm Convention on Persistent Organic Pollutants and support to waste management in high-density areas.

Inter-agency cooperation

42. To underline the importance of UNIDO involvement in system-wide cooperation and to present UNIDO's strategic vision of development for the region, UNIDO actively participated in the Third United Nations Conference on the Least Developed Countries, in the high-level segment of the Economic and Social Council on sustainable development of Africa and the heads of State summit on partnership with the private sector for financing Africa's growth through the New Partnership for Africa's Development. UNIDO's constructive involvement resulted in recognition of the key role of productivity and industry for sustainable growth and poverty alleviation in the

region. Synergy and coordination with other partners were strengthened.

43. UNIDO continued its efforts to refocus and adjust its activities to the new realities of development cooperation and to integrate its assistance within the framework of United Nations programmes in Africa. Thus, UNIDO participated actively in the third annual regional consultation of United Nations agencies working in Africa (October 2001, Addis Ababa), where it came up with its views on meeting the challenges of the continent's development and the UNIDO response, within the framework of the New Partnership for Africa's Development. UNIDO also contributed to the Conference on African Economic Integration: the pivotal role of the private sector (November 2001, Accra), which served as a global forum to boost private sector growth.

44. UNIDO has been involved in promoting cooperation between governmental bodies and the private sector, including the establishment of public/private sector consultative mechanisms in several countries: Ghana, Nigeria, Senegal and the United Republic of Tanzania. Cooperation between the public and private sectors is a powerful factor in increasing trade and investment flows and it is one of the main objectives of the UNIDO integrated programmes.

45. A policy-level highlight of the UNIDO biennial cycle is the Conference of African Ministers of Industry, which is organized jointly with ECA and OAU and meets prior to sessions of the UNIDO General Conference. The fifteenth Conference of African Ministers of Industry, and its subsidiary organ, the Intergovernmental Committee of Experts of the Whole on Industrialization in Africa, met at Yaoundé, in October 2001. The Conference called upon the African States: to implement sound macroeconomic policies and sectoral programmes to encourage competitiveness and good governance; to continue in the course of 2002 to establish Industrial Partnership Councils as a platform for dialogue and cooperation between Governments and the private sector; and to formulate under their auspices national long- and medium-term industrial development plans. In addition, it was decided to strengthen the programme of activities of the Conference of African Ministers of Industry through a series of highly focused industrial development programmes. Acknowledging UNIDO's key role in the industrialization of Africa, the fifteenth Conference requested the organization: to continue to assign high priority to African countries in the formulation and timely implementation of integrated programmes; to assist in stepping up inter-African cooperation; and to step up the organization of high-level work visits and study missions to rapidly industrializing African countries in order to implement tripartite initiatives. The Conference also mandated the executive heads of ECA, OAU and UNIDO, in cooperation with other agencies, to vigorously pursue the relevant objectives set out in the New Partnership for Africa's Development. It was also decided to proceed, under the auspices of the Conference, ECA and UNIDO, with the organization of subregional meetings in Africa in order to come up with new regional development policies and strategies.

Research collaboration with Oxford University: focus on Africa

46. Complying with the new reality of disseminating recent knowledge by universities, exploited by institutions and commercialized by dynamic industries, cooperation with Oxford University was in the vanguard of UNIDO's new policy accent on networking with relevant institutions. Research in 2001, under the collaboration agreement with the University's Centre for the Study of African Economies, included working papers on investment, export and productivity-related issues based on in-depth surveys of manufacturing in Ghana, Kenya and the United Republic of Tanzania. A discussion paper on the performance of African enterprises was also prepared for the business sector round table at the Third United Nations Conference on the Least Developed Countries.

47. In March, the Centre conducted a training workshop on collection and analysis of data on African firms for 16 civil servants from five African countries as well as two UNIDO staff members. The workshop coincided with the Centre's annual conference, which focused on development policy in Africa — public and private perspectives, where UNIDO delivered a keynote speech on industrial development and action-oriented research and networking.

48. Trainees from Nigeria used their newly acquired skills in data collection and compilation as national zonal supervisors, training other members of the survey team, who acted as enumerators and data-entry clerks, to conduct a survey of 300 manufacturing firms in the

country. The survey was completed, with a high degree of accuracy, based on the training received at Oxford.

49. A joint UNIDO/Centre for the Study of African Economies international conference on new industrial realities and firm behaviour in Africa was held at Oxford. Bringing together analysts, policy makers and development practitioners, the meeting debated research findings based on firm-level work in the manufacturing sector.

South-South cooperation

50. To a significant extent, activities in the region featured South-South cooperation relating to industrial human resource development and capacity-building. Through the Tokyo International Conference on African Development, collaboration with China and UNIDO-India partnerships, a number of study tours and group training programmes were arranged. An Asia-Africa investment promotion centre implemented for seven pilot recipient countries (Côte d'Ivoire, Ghana, Mozambique, Senegal, Uganda, the United Republic of Tanzania and Zimbabwe) will improve the transfer of investment and technology from Asian to African countries. To share its successful experience in structural transformation and industrialization, Malaysia cooperated in organizing a study tour for senior officials of the Nigerian Government and representatives from the private sector.

Least developed countries

51. Least developed countries remain at the core of the geographical, sectoral and thematic priorities of UNIDO, in line with the business plan. To coordinate effectively and to enhance UNIDO activities in support of least developed countries, relevant adjustments in the organizational structure were made and a post of coordinator for least developed countries established. System-wide events in 2001, in particular the Third United Nations Conference on the Least Developed Countries, encouraged UNIDO activities in support of least developed countries during the year.

52. Owing to UNIDO's effective involvement, the Third United Nations Conference was the first United Nations conference in many years to establish the issue of productive capacities as one of the priorities for least developed countries to curb their marginalization, fight poverty, participate successfully in world trade and benefit from the globalization process.

53. UNIDO played the leading role in the thematic session on energy and launched a portfolio of special initiatives called "deliverables" to contribute to the implementation of the eight priority "commitments" spelled out in the new programme of action adopted by the Conference for the decade 2001-2010.

54. As a follow-up to the Third United Nations Conference on the Least Developed Countries, UNIDO pursued various initiatives to implement the Brussels Declaration and new Programme of Action. First, in line with commitment 4 of the Programme of Action (Building productive capacities), a programme on enabling least developed countries to participate in international trade was launched, aimed at facilitating their trade participation and export competitiveness through the upgrading of quality and accreditation infrastructure, in particular in food, textile and leather products. The European Union agreed to finance a regional programme for member States of the West African Economic and Monetary Union (seven of eight are least developed countries). With support from Germany, a programme is under development for seven members of ECOWAS, including five least developed countries (Cape Verde, Gambia, Guinea, Liberia and Sierra Leone). Similarly, a programme is under development to strengthen the standards, metrology, testing, conformity assessment and quality and productivity capacities to enable them to reap the benefits of globalization.

55. Dynamic follow-up also applied to energy. Renewable energy projects promoting solar, wind and biomass energy in rural areas were formulated for three least developed countries (the Gambia, Ethiopia and Zambia), with Global Environment Facility funding for Zambia. UNIDO has been also active in the further development and expansion of the "multi-functional platform" programme. Initiated in Mali in 1995, the programme has successfully applied simple technology and energy services to fight rural poverty and to empower women. In partnership with the United Nations Development Programme (UNDP), the programme was expanded in 2001 through a regional programme benefiting other West African least developed countries (Burkina Faso, Guinea and Senegal). A workshop at Bamako in December, organized jointly with UNDP, confirmed the validity and success of the programme based on the know-how and national expertise developed and the keen interest of both African countries and donor countries.

56. On "trade issues", UNIDO highlighted the need to promote the correlation between access to markets and the strengthening of productive capacities. In addition, UNIDO also participated in the International Conference on Financing for Development, held in Monterrey, Mexico, in May 2002.

III. Conclusions and recommendations

57. **In order to make globalization work for all, and in order to accomplish the Millennium Development Goals, special emphasis should be placed on the promotion of sustainable industrial development through the building of competitive industrial capacities. Globalization, without the creation and enhancement of domestic productive capacity, leads to marginalization. The present international trend towards intensified globalization and accelerated technical progress makes the role of industry even more important for economic, social and environmental development.**

58. **Without industrialization, a sustainable path of economic development will not be achieved. Industry, in particular the manufacturing industry, drives economic growth. Industry provides a breeding ground for entrepreneurship, fosters technological dynamism and productivity growth, creates skilled jobs and, through intersectoral linkages, establishes the foundation for the expansion of both agriculture and services. Furthermore, prices of manufactured exports are less volatile and susceptible to long-term depreciation than are those of primary goods, thus, providing the potential for sustainable export growth and integration in the global industrial economy.**

59. **Industry plays an important role as a producer of goods for poor and socially disadvantaged groups. It helps rural areas to develop and to reduce post-harvest losses. The expansion of private sector industrial activities provides a foundation for meeting the basic human needs of the poor. Industry also produces a range of health-related products, which increase life expectancy and reduce infant mortality. Industry strengthens the infrastructure base for socio-economic advancement and plays an important role in post-war and post-emergency reconstruction and recovery. It contributes to conflict prevention and peace by job creation, poverty alleviation and social stability.**

60. **The problem of poverty alleviation cannot be automatically resolved by merely getting the macroeconomic and social conditions right and by opening trade and investment — policies to ensure sustainable productivity growth with equitable distribution of the benefits are also vital. By attending to the structural aspects of industrial development, countries can greatly improve their industrial performances.**

61. **Strategies and polices should be tailored to developing economy needs. Focusing on SMMEs and SMMIs, and helping them link up with the global economy, agro-industries and rural industrialization, and on regional industrial development, with effective participation in the regional and global value chain, can play an important role in poverty alleviation efforts.**

62. **Within the process of globalization, the interconnection and interdependence between industrial development and trade is increasing. International trade is important for fostering industrial growth and the structural transformation of economy.**

63. **African countries should diversify away from traditional trade patterns, marked by excessive reliance on exports of raw materials and semi-processed goods and on traditional comparative advantages of raw materials and unskilled labour. Manufacturing plays a crucial role in transforming the economic structure of poor economies. It is a catalyst for shifting economies away from simple, low-value activities with poor growth prospects to activities with high productivity, increasing returns and strong growth potential.**

64. **Global industrial value chains, linking the entire sequence of activities from raw material extraction, production, design, research and development to marketing, delivery and disposal after use, opens up new avenues for industrial capacity-building and structural transformation of the economies of developing countries. Enterprises can link up with outside entities to acquire technologies and skills to leverage external resources for industrial development. While participation in global value chains can accelerate the process of industrial capacity-building by enterprises, for this to be successful, domestic industrial capacity-building must be rewarding and sustainable.**